XLV/384

THE LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA IN COUNCIL,

FROM 1834 TO THE END OF 1867.

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT; TABLE OF CONTENTS AND INDEX TO EACH VOLUME; THE LETTERS PATENT OF THE HIGH COURTS, AND ACTS OF PARLIAMENT AUTHORIZING THEM.

(TO BE CONTINUED ANNUALLY.)

VOL. III.

1859—1861.

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ERRATA

Page 329, Section 3 (official abstract)—Section 16 should be 14.

Page 370, Section XX., line 3—*Establishes* should be *established*.

Page 387, Section VII.—Whenever such *warrant*, &c., should be, Whenever such *owners*, &c.

Page 753, Section 26 (official abstract)—Act XIV. should be Act XV.

THE

LEGISLATIVE ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

MERCHANT SEAMEN.

Act No. I. of 1859.

[*Received the assent of the G. G. on the 25th Jan.*, 1859.

Recites that the Registry Law is ineffective; also Merchant Shipping Act of Parliament of 1854, and expediency of applying it to India.

1. Repeals Acts XXVII. and XXVIII. of 1850.

2—8. Shipping Offices.—(2) Shipping Office to be established with Shipping Master; (3) who is to be appointed, &c., by Local Government; (4) his business to superintend, &c., engagement, &c., of Seamen, and to assist in appointing boys to Sea Service; (5) to be paid what fees and (6) by whom, (7) and liable to penalty for taking other reward. (8) His Office may be at Custom House.

9—17. Examinations and Certificates of Masters and Mates.—(9) Examinations to be instituted for Masters and Mates of foreign-going ships, &c.; (10) Examiners to be appointed, with rules; (11) on their report Certificates to be issued; (12) Certificates of Service to be given to what Masters; (13) specified ships not to go to Sea without Certificate of Master; (14) different grades of Certificates; (15) Certificates to be in duplicate; (16) if lost copy may be given; (17) but not to be given to Arab Ships, &c.

18—35. Engagement of Seamen.—(18) Government may license hirers of Seamen; (19) Penalties on unlicensed persons hiring or employing them, and on receiving Seamen illegally supplied; (20) penalty on taking illegal remuneration. (21) Master to enter into specified agreement, except in case of pre-existing agreement; (22) rules respecting agreements for foreign-going ships for which (23) Master may have running agreement; (24) regulations respecting them; and (25) fees payable on them. (26) Home-trade ships of certain tonnage may have foreign voyage agreements, (27) Owner of several ships may agree for service in any of them. (28) Penalty for taking seamen to sea without agreement; (29) change in crew to be reported. (30) Shipping master may board ship and muster crew. (31) Rules respecting production of agreements in case of foreign-going ships and (32) in case of home-trade ships.

(33) Alterations in agreements void unless attested; (34) copy of agreement to be open to crew; and (35) crew prematurely discharged to be entitled to compensation.

36, 37. ADVANCES.—(36) Advance to be only of a month's wages and only to the seaman, and (37) contrariwise not to go as payment.

38—40. ALLOTMENT OF WAGES.—(38) Allotment to be expressed in agreements, and allotment notes given (39) to be paid to Shipping Master, and (40) by him over.

41—46. DISCHARGE AND PAYMENT OF WAGES.—(41) Foreign-going seamen to be discharged before Shipping Master; (42) to whom account to be previously rendered; and (43) certificates of discharge to be given, &c. (44) Shipping Master may arbitrate on differences, and (45) may call for ship's papers, &c. (46) Settlement how to be made.

47—54. LEGAL RIGHTS TO WAGES.—(47) When to begin; (48) Secured by lien; (49) not to depend on freight; nor (50) to be lost by death; nor (51) by wreck, &c., of ship, &c.; (52) how in case of misconduct, &c. (53) When due and payable; and (54) at what rate of exchange.

55—58. MODE OF RECOVERING WAGES.—(55) Recoverable before Magistrate; (56) by distress; (57) in Admiralty Court not under 500 rupees; and (58) Masters to have same remedies as Seamen.

59—63. WAGES AND EFFECTS OF DECEASED SEAMEN.—(59) Statement of, to be entered in Log-book. (60) Effects to be delivered to Shipping Master, &c. (61) Penalty on Master for default. (62) Probate, &c., not necessary. (63) If not claimed in year, to be paid into Public Treasury.

64—71. PROVISIONS, HEALTH, AND ACCOMMODATION.—(64) Any 3 of crew may complain to Shipping Master of water, &c. (65) Week's wages forfeited if complaint frivolous. (66) Fixes scale of compensation for bad provisions, &c. (67) Prescribes supply of medicines, and (68) keeping on board weights and measures. (69) Entitles Seamen to Medical attendance. (70) Prescribes space in ship for shelter of Seamen, &c. (71) Empowers Shipping Master to inspect these things.

72. COMPLAINTS.—Entitles Seamen to go ashore to make complaints.

73—78. PROTECTION FROM IMPOSITION.—(73) Makes assignment of wages void; and (74) debt exceeding 3 rupees not recoverable, &c. (75) Penalty for overcharge for board, &c.; and (76) for unlawful detention of effects. (77) Prohibits persons going on board on arrival of ship without leave of Master; and (78) solicitation of lodging house keepers.

79—99. DISCIPLINE.—(79) Prescribes punishment on Master, &c., for wilful breach, &c., of duty and other specified offences endangering loss of ship, &c. (80) Empowers Admiralty Court to remove Master. (81) Authorises investigation into competency of Master or Mate, and report to Government; and (82) Government to cancel, &c., Certificates in specified cases. (83) Authorises summary punishment of seamen for specified offences of nine kinds; (84) Offences to be noted in Log-book, and Log-book to be produced in evidence. (85) Rules of discipline to extend to all seamen whom

Master is obliged to take, &c. (86) Master, &c., may arrest deserters, &c., for purpose of bringing them before Court; and (87) Court may send them on board ship, &c., instead of to prison, &c., or (88) from prison on board, &c. (89) Entry in Log of desertion to be sent to ship's port, and to be evidence; (90) Prescribes what evidence of desertion shall be sufficient on question of wages. (91) permits application of wages to costs of prosecution. (92) Wages for desertion to be forfeited *pro ratâ* and (93) Prescribes application of effects in case of forfeiture. (94) Criminal proceeding not to bar forfeiture. (95) Prescribes penalty for false statements by seamen. (96) Fines stipulated for in agreement to be deducted and paid to Shipping Master, &c. (97) Prescribes penalty on persons persuading seamen to desert, &c., and (98) on persons secreting themselves on board ship, &c. (99) Masters on leaving to deliver ship's papers, &c., to successor.

100—102. Enquiries into Wrecks.—(100) Describes the cases which Civil Officers are bound to report, and authorises the Local Government to appoint and inquire into them. (101) Gives powers to persons appointed to inquire, who (102) are to report to Government.

103—110. Official Logs.—(103) Official Log to be kept in prescribed form, in which (104) every entry is to be made immediately after occurrence. (105) Prescribes entry of certain specified matters; and (106) how those entries to be signed. (107) Defines offences in respect of Official Logs and attaches penalties; (108) Mate's entries evidence; (109) Directs delivery of Log to Shipping Master after voyage; and (110) Log to be sent home if ship transferred.

111—118. Miscellaneous.—(111) Makes old depositions evidence in specified cases. (112) All offences punishable by fine may be tried by Magistrate; (113) Penalties may be levied by distress and sale, &c. (114) Act not to extend to Her Majesty's ships or ships of Foreign States or to Foreign ships. (115) Foreign ships to engage Seamen after manner prescribed by this Act, and Master and surety to give bond for performance: and (116) same fees payable as by British ships (117) Prescribes penalty on Master of Foreign ship contravening this Act. (118). Interprets words, "India," "Local Government," "Home-trade ship," "Foreign-going ship," "Master," "Seaman," &c.

Table A. Fees. Table B. Deductions from wages.

An Act for the amendment of the law relating to Merchant Seamen.

Preamble.

Whereas the law for the registry of Seamen and the grant of Register Tickets has been found to be ineffective for the purposes intended; and whereas, by Section CCLXXXVIII. of an Act of the Imperial Parliament, called "the Merchant Shipping Act, 1854," it is enacted that, "If the Governor General of India in Council, or the respective Legislative Authorities in any British possession

abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied and such penalties and punishments had been hereby expressly imposed." And whereas it is expedient to discontinue the practice of registry and the grant of register Tickets, and to apply to ships registered at, trading with, or being at any Port or place in India, certain provisions of the third part of the said Act with such adaptations and modifications as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to Merchant Seamen, it is enacted as follows:

Acts repealed.

I. Act XXVII. of 1850, entitled "An Act for the registry of Merchant Seamen," and Act XXVIII. of 1850, entitled "An Act for the encouragement of Merchant Seamen," are hereby repealed, except as to acts done and agreements made before the passing of this Act.

Shipping Offices.

Shipping offices.

II. A Shipping Office shall be established at each of the Ports of Calcutta, Madras, and Bombay, and at such other Ports as the Governor General of India in Council shall hereafter deem necessary. For every such Office there shall be a Superintendent, to be called a "Shipping Master," with such necessary Deputies, Clerks, and Servants, at such salaries, and subject to such regulations, as the Local Government shall from time to time, with the sanction of the Governor General of India in Council, direct and appoint. Every act done by or before any Deputy duly appointed shall have the same effect as if done by or before a Shipping Master.

III. The Local Government shall have power to appoint and remove such Shipping Masters and Deputies who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

Appointment, removal, and control of Shipping Masters and Deputies.

IV. It shall be the general business of the Shipping Masters appointed under this Act, to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the payment on board at the proper times of men who are so engaged, and to perform such other duties relating to Merchant Seamen and Merchant Ships as are hereby or under the said Merchant Shipping Act, 1854, or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of Shipping Masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorised so to do by Act XIX. of 1850 (concerning the binding of apprentices), and also to masters and owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.

Business of Shipping Masters.

V. Such fees, not exceeding the sums specified in the Table marked A. in the Schedule to this Act, as are from time to time fixed by the Local Government, shall be payable upon all engagements and discharges effected before Shipping Masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the Shipping Offices; and all Shipping Masters, their Deputies, Clerks, and Servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees to be paid upon engagements and discharges.

VI. Every owner or master of a ship engaging or discharging any seamen in a Shipping Office or before a Shipping Master, shall pay to the Shipping Master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, retain, any sums not exceeding the sums specified in that behalf in the Table marked B. in the

Fees by whom to be paid, &c.

Schedule hereto. Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the Shipping Master in addition to such fee.

Penalty on Shipping Master taking other remuneration.

VII. Any Shipping Master, Deputy Shipping Master, or any Clerk or Servant in any Shipping Office who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding two hundred Rupees, and shall also be dismissed from his office.

Business of Shipping Office may be transacted at Custom House or elsewhere.

VIII. The Local Government may direct that, at any place at which no separate Shipping Office is established, the whole or any part of the business of the Shipping Office shall be conducted at the Custom House, or at the Office of the Master Attendant or Harbour Master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such Custom House or Office as aforesaid shall for all purposes be deemed to be a Shipping Office, and the Officer of Customs or other Officer there, to whom such business is committed, shall for all purposes be deemed to be a Shipping Master within the meaning of this Act.

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

Examinations.

IX. Examinations shall be instituted for persons who intend to become Masters or Mates of Foreign-going ships or of Home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned. [See Note at end of Act.]

Local Government to appoint examiners.

Rules for conduct of examination.

X. The Local Government, or any Board or Officer duly authorized by the Local Government in that behalf, shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination. The Local Government may, with the

sanction of the Governor General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners. Fees at the following rates shall be paid by all applicants for examination:—

Fees.

For a certificate as Master	...	10 Rupees.
Ditto Ditto as Mate	...	5 " [See Note at end of Act.]

XI. The Local Government, or such Board or Officer as aforesaid, shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board-ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a Foreign-going ship or of a Home-trade ship of a burden exceeding three hundred tons, as the case may be. [See Note at end of Act.]

Certificates of competency.

XII. Certificates of service differing in form from Certificates of competency shall be granted as follows (that is to say):—

Certificates of service.

1. Every person who before the passing of this Act has served as Master in the British Merchant Service or as Master of any Foreign-going ship, registered under Act X. of 1841, or who has attained or shall attain the rank of Lieutenant, Master, passed Mate, or second Mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a Certificate of service as Master for Foreign-going ships.

2. Every person who before the passing of this Act has served as Mate in the British Merchant Service or as Mate of any such ship as aforesaid shall be entitled to a Certificate of service as Mate for Foreign-going ships.

3. Every person who before the passing of this Act has served as Master or Mate of a Home-trade ship of a burden exceeding three hundred tons, shall be entitled to a Certificate of service as Master or Mate (according to such previous service) for such Home-trade ships.

And each of such Certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government or such other authority as aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid. [See Note at end of Act.]

No Foreign-going ship and no Home-trade ship above 300 tons to go to sea without certificate of Master, &c.

XIII. No Foreign-going ship or Home-trade ship of a burden exceeding three hundred tons shall go to sea from any Port in India unless the Master and one Officer besides the Master have obtained and possess valid and appropriate Certificates either of competency or service under this Act or under the Merchant Shipping Act 1854; and whoever, having been engaged to serve as Master or Mate, goes to sea as aforesaid, as such Master or Mate, without being at the time entitled to and possessed of such a Certificate as hereinbefore required, and whoever employs any person as such Master or Mate, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty of five hundred Rupees. [See Note at end of Act.]

Certificate for Foreign going ships available for Home-trade ships.

XIV. Every Certificate of competency for a Foreign-going ship shall be deemed to be of a higher grade than the corresponding Certificate for a Home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no Certificate for a Home-trade ship shall entitle the holder to go to sea as Master or Mate of a Foreign-going ship. [See Note at end of Act.]

Record of grants; cancellations, &c., of Certificates.

XV. All Certificates, whether of competency or service, shall be made in duplicate; and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the Local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate, in pursuance of the powers herein contained, shall be entered in the record of Certificates. [See Note at the end of Act.]

XVI. Whenever any Master or Mate proves to the satisfaction of the Local Government or such other authority as aforesaid, that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a copy of the Certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original. [See Note at end of Act.]

Loss of Certificate.

XVII. Repealed by Act XV., 1863, s. 1.

ENGAGEMENT OF SEAMEN.

XVIII. The Local Government, or any Board or Officer duly authorised by the Local Government in that behalf, may grant to such persons as may be deemed fit, licenses to engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.

Licenses to procure seamen.

XIX. The following offences shall be punishable as hereinafter mentioned (that is to say):—

Penalties.

1. If any person not licensed as aforesaid, other than the Owner or Master or Mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the Owner, or a Shipping Master, duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred Rupees.

For supplying seamen without license.

2. If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred Rupees, and, if licensed, shall, in addition, forfeit his license.

For employing unlicensed persons.

3. If any person knowingly receives or accepts to be entered on board any ship any seamen who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman so engaged or supplied, incur a penalty not exceeding one hundred Rupees.

For receiving seamen illegally supplied.

Penalty for receiving remuneration from seamen for shipping them.

XX. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorised, for providing him with employment, he shall for every such offence incur a penalty not exceeding fifty Rupees, and, if licensed as aforesaid, shall, in addition, forfeit his license.

XXI. Repealed by Act XV., 1863, s. 1.

For Foreign-going ships such agreements, except in special cases, to be made before and attested by a Shipping Master.

XXII. In the case of all Foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered, the following rules shall be observed with respect to agreements (that is to say):—

Agreement to be signed by seaman.

1. Every agreement made in any Port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a Shipping Master.

Shipping Master to cause agreement to be explained to seaman.

2. Such Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

To be in duplicate.

3. When the crew is first engaged, the agreement shall be signed in duplicate, and one part shall be retained by the Shipping Master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the Master.

Provision for substitutes.

4. In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some Shipping Master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and

the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign-going ships making short voyages may have running agreements.

XXIII. In the case of Foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her Port of destination in India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other Foreign-going ships; and every person engaged thereunder, if discharged in any Port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other Foreign-going ships.

Engagement and discharge of seamen in the meantime.

XXIV. The master of every Foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any Port in India before the final termination of the agreement, discharge or engage before the Shipping Master at such Port any seamen whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be), either that no such discharges or engagements have been made or are intended to be made before the ship again leaves Port, or that all such discharges or engagements have been duly made as hereinbefore required; and shall deliver the agreement so endorsed to the Shipping Master; and any Master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding two hundred Rupees; and the Shipping Master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the Master.

Fees to be paid on such running agreements.

XXV. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to Foreign-going ships which have running agreements as aforesaid, the

crew shall be considered to be engaged when the agreement is first signed and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In Home-trade ship's agreement to be entered into before Shipping Master or other witness.

XXVI. In the case of Home-trade ships of a burthen exceeding three hundred tons, crews or single seamen may, if the Master thinks fit, be engaged before a Shipping Master in the manner hereinbefore directed with respect to Foreign-going ships; and in every case in which the engagement is not so made, the Master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Special agreements for Home-trade ships belonging to same Owner.

XXVII. In cases where several Home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding any thing herein contained, be made by the Owner instead of by the Master, and the seamen may be engaged to serve in any two or more of such ships provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for Home-trade ships shall be applicable to agreements made in pursuance of this Section.

Penalty for shipping seamen without agreement duly executed.

XXVIII. If in any case a Master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the Master shall for each such offence incur a penalty not exceeding fifty Rupees.

Changes in crew to be reported.

XXIX. The Master of every Foreign-going ship, of which the crew has been engaged before a Shipping Master, shall, before finally leaving India sign and send to the nearest Shipping Master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall for each offence

incur a penalty not exceeding fifty Rupees; and such statement shall be admissible in evidence subject to all just exceptions.

To prevent infraction of Act, Shipping Master may board vessels and muster seamen.

XXX. For the purpose of preventing any seamen from being shipped at any Port in India contrary to the provisions of this Act, the Shipping Master by himself or his Deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said Shipping Master or Deputy in such duty shall be liable to a penalty not exceeding one hundred Rupees.

Production of agreements and certificates.

XXXI. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for Foreign-going ships (that is to say):—

1. The Master of every Foreign-going ship shall, on signing the agreement with his crew, produce to the Shipping Master before whom the same is signed the certificates of competency or service which the said Master and his Mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the Shipping Master shall sign and give to the Master a certificate to that effect.

2. In the case of running agreements for Foreign-going ships, the Shipping Master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the Master, on his complying with the provisions herein contained with respect to such agreements, and producing to the Shipping Master the certificate of competency or service of any Mate then first engaged by him, a certificate to that effect.

3. The Master of every Foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the Shipping Master as aforesaid to the Collector of Customs, or if there be no Collector of Customs to the Officer whose duty it is to grant a port-clearance. No Officer of Customs or other Officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such Officer may detain her until such certificate as aforesaid is produced.

4. The Master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final Port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a Shipping Master at the place; and such Shipping Master shall thereupon give to the Master a certificate of such delivery; and no Officer of Customs or other Officer shall clear any Foreign-going ship inwards without the production of such certificate.

And if the Master of any Foreign-going ship fails to deliver the agreement to a Shipping Master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding fifty Rupees.

Rules as to production of agreements and certificate for Home-trade ships.

XXXII. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for Home-trade ships of a burden exceeding three hundred tons (that is to say):—

1. No such agreement shall extend beyond the next following Thirtieth day of June or Thirty-first day of December, or the first arrival of the ship at her final Port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2. The Master or Owner of every such ship shall, within twenty-one days after the Thirtieth day of June and the Thirty-first day of December in every year, or if the ship is not at any Port in India within twenty-one days after either the 30th day of June or the 31st day of December in any year, within forty-eight hours after her next arrival at any Port in India, transmit or deliver to some Shipping Master in India every agreement made within the six calendar months next preceding such days respectively, and shall also produce to the Shipping Master the certificates of competency or service which the said Master and his Mate are hereby required to possess.

3. The Shipping Master shall thereupon give to the Master or Owner a certificate of such delivery and production; and no Officer of Customs or other Officer authorized to grant a port-clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such Officer may detain her until the said certificate is produced.

And if the agreement for any Home-trade ship is not delivered or transmitted by the Master or Owner to a Shipping Master at the time and in the manner hereby directed, such Master or Owner shall for every default incur a penalty not exceeding fifty Rupees.

Alteration to be void unless attested to have been made with the consent of all parties.

XXXIII. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration, by the written attestation (if made in Her Majesty's Dominions) of some Shipping Master, Justice, Officer of Customs, or other public functionary, or (if made out of Her Majesty's Dominions) of a British Consular Officer, or where there is no such Officer, of two respectable British Merchants.

Copy of agreement to be made accessible to crew.

XXXIV. The Master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding fifty Rupees.

Seaman discharged before voyage to have compensation.

XXXV. Any seaman who has signed an agreement and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Regulation of Advances.

Regulation of advances and advance-notes.

XXXVI. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof; and no advance-note shall be given to any seaman who signs the agreement before a Shipping Master, unless in the presence of such Shipping Master.

Advances irregularly or improperly made not to be a discharge of wages.

XXXVII. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given; and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Allotment of Wages.

Stipulations for allotment to be inserted in the agreement.

XXXVIII. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the Shipping Master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Allotment-notes.

Owner, &c., to pay to Shipping Master the sums allotted.

XXXIX. The Owner or any Agent who has authorized the drawing of an allotment-note, shall pay to the Shipping Master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages

out of which the allotment is to be paid; and in the event of such sums not being paid to the Shipping Master on demand, the Shipping Master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence, made and signed by the Master as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the Master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Suit on allotment-notes. Evidence.

XL. The Shipping Master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the Shipping Master or his Deputy; and the said book shall be, at all times, open to the inspection of the parties concerned.

Receipts and payments by Shipping Master on account of allotment-notes.

Discharge and Payment of Wages.

XLI. All seamen discharged from any Foreign-going-ship at any Port in India, in whatever part of Her Majesty's Dominions the ship is registered, shall be discharged and receive their wages in the presence of a Shipping Master duly appointed under this Act, except in cases where some competent Court otherwise directs: and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages in any other manner, shall incur a penalty not exceeding one hundred Rupees; and in the case of Home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Discharge from Foreign-going ships to be made before Shipping Master.

XLII. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or if he is to be discharged

Master to deliver account of wages.

before a Shipping Master, to such Shipping Master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding fifty Rupees; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery), shall be allowed unless it is included in the account so delivered; and the Master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, Masters to give seamen certificates of discharge, and return certificates of competency or service to Mates.

XLIII. Upon the discharge of any seaman or upon payment of his wages, the Master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government, specifying the period of his service and the time and place of his discharge; and if any Master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding one hundred Rupees; and the Master shall also, upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding two hundred Rupees.

Shipping Master may decide questions which parties refer to him.

XLIV. Every Shipping Master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof. An award made by a Shipping Master under this Section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of Section LV.

How award may be enforced.

Master and others to produce ship's papers to Shipping Master, and give evidence.

XLV. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any Shipping Master under the provisions of this Act, such Shipping Master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew, who, when called upon by the Shipping Master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding fifty Rupees.

Settlement of Wages.

XLVI. The following rules shall be observed with respect to the settlement of wages, that is to say):—

Release to be signed before and attested by the Shipping Master.

1. Upon the completion before a Shipping Master of any discharge and settlement the Master or Owner and each Seaman shall respectively in the presence of the Shipping Master sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the Shipping Master shall also sign and attest the release, and shall retain the same.

To be a discharge.

2. Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

And to be evidence.

3. A copy of such release, certified under the hand of such Shipping Master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

No other receipt to be a discharge.

4. In cases in which discharge and settlement before a shipping Master are hereby required, no payment, receipt, settlement, or discharge otherwise

made shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to Master and to be evidence.

5. Upon any payment being made by a Master before a Shipping Master, the Shipping Master shall, if required, sign and give to such Master a statement of the whole amount so paid, and such statement shall, as between the Master and his employer, be received as evidence that he has made the payments therein mentioned.

LEGAL RIGHTS TO WAGES.

Right to wages and provisions when to begin.

XLVII. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seaman not to give up certain rights.

XLVIII. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to be dependent on the earning of freight.

XLIX. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

In case of death, such wages to be paid as after mentioned.

L. If any seaman or apprentice to whom wages are due under the last preceding Section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

Rights to wages in case of termination of service by wreck or illness.

LI. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage, granted under the provisions of the Merchant Shipping Act, 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

LII. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which wages are to be paid.

LIII. The Master or Owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every Master or Owner who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten days during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

What amount in the current coin of India is recoverable by seaman under an agreement expressing his wages, &c., to be payable in a Foreign coin.

LIV. When any moneys are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such moneys are expressed to be payable in some denomination of coin other than the current coin of the Port or place wherein the same have become payable, the seaman or apprentice shall be entitled to demand and recover, in the current coin of such Port or place, the amount due to him estimated according to the established par value of the coin wherein the same is so expressed to be payable.

Mode of Recovering Wages.

Seaman may sue summarily before any Magistrate for wages not exceeding 500 Rupees.

LV. Any seaman or apprentice, or any person duly authorized on his behalf, may sue, in a summary manner, before any Magistrate acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred Rupees. Every order made by such Magistrate in the matter shall be final.

Order of Magistrate to be final.

Levy of wages by distress.

LVI. When an order for the payment of wages is made by a Magistrate under the last preceding Section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the Magistrate.

No suit for wages under 500 Rupees to be instituted in Admiralty Court, &c., except in certain cases.

LVII. No suit or proceeding for the recovery of wages under the sum of five hundred Rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty or in any Court of Civil Judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

Master to have same remedies for wages as seamen.

LVIII. Every Master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a Master, has for the recovery of his wages; and if in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a Master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all

accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

WAGES AND EFFECTS OF DECEASED SEAMEN.

Master to take charge of effects of deceased seaman.

LIX. Whenever a seaman or apprentice, on a voyage which is to terminate at any Port in India, dies during such voyage, the Master shall take charge of all money, clothes, and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold.

Effects and wages to be paid to Shipping Master with full accounts.

LX. The Master shall, within forty-eight hours after his arrival at his Port of destination in India, deliver, any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the Shipping Master at such Port, and shall give to such Shipping Master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the Shipping Master to whom the account is rendered.

Penalties for not taking charge of or accounting for such moneys and effects.

LXI. If the Master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to the Shipping Master as aforesaid, and shall pay and deliver the same accordingly; and such Master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not ascertained, not exceeding five hundred Rupees. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seamen may be paid without probate.

LXII. When money or effects left by, or due to, any deceased seaman or apprentice, are paid or delivered to a Shipping Master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the Shipping Master thinks proper to allow, the Shipping Master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said Shipping Master to be entitled thereto, and the said Shipping Master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or if he think fit so to do, the Shipping Master may require probate or letters of administration or a certificate under Act XX. of 1841 to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Disposal of wages or effects of deceased seamen not claimed within one year.

LXIII. In cases of wages or effects of deceased seamen or apprentices received by any Shipping Master to which no claim is substantiated within one year from the receipt thereof by such Shipping Master, it shall be the duty of the Shipping Master to cause such effects to be sold and to pay the proceeds of the sale and the unclaimed wages into the Public Treasury. If any subsequent claim is made to such money and is established to the satisfaction of the Shipping Master, the amount, or so much as shall appear to be due to the claimant, shall be paid out of the Public Treasury. If the claim is not established to the satisfaction of the Shipping Master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the Presidency, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to the Court of Judicature there; and such Court, after taking evidence, either orally or on affidavit, shall make such order on the petition as shall seem just. Provided that, after the expiration of six years from the receipt of such wages or effects by the Shipping Master, no such claim shall be entertained without the sanction of the Local Government.

If subsequent claim be made thereto.

Proviso.

PROVISIONS, HEALTH, AND ACCOMMODATION.

Survey of provisions and water on complaint made.

LXIV. Any three or more of the crew of any Ship registered at, trading with, or being at any Port or place in India, may complain to any Shipping Master or other Officer duly appointed in this behalf by the Local Government, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such Officer may thereupon examine the said provisions or water or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding two hundred Rupees; and upon every such examination as aforesaid, the Officers making or directing the same shall enter a statement of the result of the examination in the Official log, and shall send a report thereof to the Shipping Master, and such report, if produced out of the custody of such Shipping Master, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

LXV. If the Officer to whom any such complaint as last aforesaid is made, certificates in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provision.

LXVI. In the following cases (that is to say):—

1. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for, is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient

cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

2. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say):—

1. If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

2. If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

3. In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown, to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

Medicines, &c., to be provided and kept on board certain ships.

LXVII. All Foreign-going ships and all Home-trade ships of a burden exceeding three hundred tons, shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the Local Government, with the approval of the Governor General of India in Council, and published at Calcutta, Madras, and Bombay, in the "Government Gazettes," and in the Straits' Settlement in such manner as the Governor shall notify, and in default thereof, the Owner or

Master of every such ship shall be liable to a penalty not exceeding Two hundred Rupees. Provided, however, that this Section shall not apply to ships navigating from the United Kingdom and coming within the provisions of Section CCXXIV. of the Merchant Shipping Act, 1854.

Proviso.

LXVIII. Every Master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding One hundred Rupees.

Masters to keep weights and measures on board.

LXIX. Whenever the Master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the Port from which he was shipped or other Port agreed upon, shall be defrayed, with the cost of his conveyance to such Port, by the Owner of the vessel without any deduction on that account from the wages of such master, officer, or seaman; and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any moneys forming part of the Revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Expense of medical attendance and subsistence in case of illness how to be defrayed.

LXX. A place or places of shelter shall be provided below a well-caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

Place to be appropriated.

1. For each European seaman or apprentice or other person shipped on the same footing as a European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck, or fifty-four cubic feet if the height from deck to deck be less than six feet.

To European seaman.

2. For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four-feet six inches above the one below it.

To lascars or native seamen.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding two hundred Rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the Master shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding one hundred Rupees.

Place to be kept clear.

Penalty if place be not properly constructed.

Penalty for not keeping space clear.

LXXI. The Shipping Master at any Port in India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such Port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act, 1854. If on inspection the provisions or water are found to be of bad quality and unfit for use or to be deficient in quantity, the Shipping Master shall proceed as provided in Section LXIV. of this Act, and the penalty prescribed in the said Section shall be incurred by any default of the Master of the Ship in respect of such provisions or water.

Shipping Master, &c., may enter on board any ship and inspect provisions, &c.

Procedure if provisions, &c., are found to be of a bad quality.

Power of making Complaints.

LXXII. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate,

Seamen to be allowed to go ashore to make complaint to a Magistrate.

so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seamen to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding one hundred Rupees.

Protection of Seamen from Imposition.

Sale of and charge upon wages to be invalid.

LXXIII. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding three Rupees recoverable till end of voyage.

LXXIV. No debt exceeding in amount three Rupees incurred by any seaman after he has engaged to serve shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house-keepers.

LXXV. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding one hundred Rupees.

Penalty for detaining seaman's effects.

LXXVI. If any person receives or takes into his possession or under his control any moneys, documents or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding one hundred Rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such moneys, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go on board before the final arrival of ship without permission.

LXXVII. Every person who, not being in the service of Her Majesty, and not being duly authorised by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding two hundred Rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any Police Officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging-house keepers.

LXXVIII. If, within twenty-four hours after the arrival of any ship at any Port in India, any person then being on board such ship solicits any seamen to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction, and with the permission of the Master, he shall for every such offence incur a penalty not exceeding fifty Rupees.

DISCIPLINE.

Penalty for misconduct in endangering life or limb.

LXXIX. Any Master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him, for preserving such ship from immediate loss destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labour, for a term not exceeding two years.

LXXX. Any Court having Admiralty jurisdiction in India

Admiralty Court in India may in certain cases remove Master and appoint a new Master.

may upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner or by any certificated Mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the Master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new Master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit. [Jurisdiction saved by Act XV., 1863, s. 10.]

LXXXI., LXXXII. Repealed by Act XV., 1863, s. 1.

Offences of seamen and apprentices and their punishments.

LXXXIII. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows (that is to say):—

Desertion.

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also if such desertion takes place at any Port or Place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any Port or Place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Neglecting or refusing to join, or to proceed to sea, absence within twenty-four hours before sailing, and absence without leave.

2. For neglecting or refusing without reasonable cause to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ships sailing from any Port either at the commencement or during progress of any voyage, or for absence at any time

without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Quitting without leave before ship is secured.

3. For quitting the ship without leave after her arrival at her Port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Act of disobedience.

4. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay.

Continued disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute

Assault on Officers.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Combining to disobey.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Wilful damage and embezzlement.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained and also, at

the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Act of smuggling causing loss to Owner.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the Master or Owner, he shall be liable to pay to such Master or Owner such a sum as is sufficient to reimburse the Master or Owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

LXXXIV. Upon the commission of any of the offences enumerated in the last preceding Section, an entry thereof shall be made in the official log book, and shall be signed by the Master and also by the Mate or one of the crew; and the offender, if still in the ship, shall before the next subsequent arrival of the ship at any Port, or if she is at the time in Port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

LXXXV. Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

LXXXVI. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police Officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and may thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or there is no such Court at or near the place, at once convey him on board; and if any such apprehension appears to the Court before which the case is brought, to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding two hundred Rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

LXXXVII. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the Master or the Owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the Master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the Master or Owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

LXXXVIII. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the Master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the Master or any Mate of the ship or to the Owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seaman imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

LXXXIX. In all cases of desertion from any ship registered at a Port or Place in India while such ship is at any place out of India, the Master shall produce the entry of such desertion in the official log-book to the person or persons required by the Merchant Shipping Act, 1854, to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion, the master shall forthwith transmit such copies to the Shipping Master at the Port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

XC. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any Port or Place in India, and the ship has not returned, that he is absent

Facilities for proving desertion so far as concerns forfeiture of wages.

from her, and that an entry of the desertion has been duly made in the official log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Costs of procuring imprisonment may, to the extent of thirty Rupees, be deducted from wages.

XCI. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty Rupees, to be applied in re-imbursing any costs properly incurred by the Master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

XCII. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

XCIII. All clothes, effects, wages and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the re-imbursement of the expenses occasioned by such desertion to the Master or Owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such Master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such re-imbursement, the same shall be paid into the Public Treasury and carried

to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the Master or Owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

XCIV. Any question concerning the forfeiture of, or deductions from the wages of any seaman or apprentice, may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

XCV. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty Rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to re-imbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages, and paid to Shipping Master.

XCVI. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows (that is to say): If the offender is discharged at any Port or place in India: and the offence, and such entries in respect thereof as aforesaid, are proved, in the case of Foreign-going ship to the satisfaction of the Shipping Master before whom the offender is discharged, and in the case of a Home-trade ship to the satisfaction of the

Shipping Master at or nearest to the place at which the crew is discharged, the Master or Owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the Officer in command of the ship into which he so enters or of the Consular Officer, Officer of Customs or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such Officer or other person; and on the return of the ship to India, the Master or Owner shall pay over such fine, in the case of Foreign-going ships to the Shipping Master before whom the crew is discharged and in the case of Home-trade ships to the Shipping Master at or nearest to the place at which the crew is discharged; and if any Master or Owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine returned by him; provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert and harbouring deserters.

XCVII. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each offence in respect of each such seaman or apprentice incur a penalty not exceeding one hundred Rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted, incur a penalty not exceeding one hundred Rupees.

Penalty for obtaining passage surreptitiously.

XCVIII. Any person who secretes himself and goes to sea in any ship without the consent of either the Owner, Consignee, or Master, or of a Mate,

or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding two hundred Rupees, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

On change of Masters, documents hereby required to be handed over to successor.

XCIX. If during the progress of a voyage the Master of any ship registered at any Port or place in India is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default incur a penalty not exceeding on thousand Rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

ENQUIRIES INTO WRECKS.

Enquiry may be instituted in cases of wreck and casualty.

C. In any of the cases following, that is to say:—

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of India;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever, by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere to or on board any ship registered at any Port or place in India, under the Merchant Shipping Act, 1854, or under Act X. of 1841—it shall be the duty of any European Civil Officer of Government residing at or near the place where such loss, abandonment, damage or casualty occurred, if the same occurred in India, but, if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, to give notice of the same to the Local Government. It shall be lawful for the Local Government, whether such notice be given or not, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same. The investigation shall be held at such place as the Local Government shall deem best for the convenient examination of the witnesses. One of

the persons to be so appointed shall be a Magistrate acting in or near the place where the investigation is held: the other may be any person conversant with maritime affairs.

Investigation.

CI. The persons appointed shall proceed to make the investigation and shall for that purpose, so far as relates to compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which such Magistrate has power to convict summarily, or as near thereto as circumstances admit.

Report.

CII. Upon the conclusion of the case the persons appointed to investigate shall send a report to the Local Government, containing a full statement of the case and of their opinion thereon, accompanied by such report of or extracts from the evidence and such observations (if any) as they may think fit.

Official Logs.

Official logs to be kept in forms sanctioned by Local Government.

CIII. An official log-book of every ship registered at any Port or place in India, except Home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the Local Government; and such official log may, at the discretion of the Master or Owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

CIV. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

CV. Every Master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters (that is to say):—

1. Every legal conviction of any member of his crew and the punishment inflicted.

Convictions.

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required.

Offence.

3. Every offence for which punishment is inflicted on board, and the punishment inflicted.

Punishments.

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars.

Conduct, &c., of crew.

5. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any).

Illness and injuries.

6. Every case of death happening on board, and of the cause thereof.

Deaths.

7. Every birth happening on board with the sex of the infant and the names of the parents.

Births.

8. Every marriage taking place on board with the names and ages of the parties.

Marriages.

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof.

Quitting ship.

10. The amount of wages due to any seaman who enters Her Majesty's Service during the voyage.

Wages of men entering Navy.

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom.

Wages of deceased seaman.

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.

Sales of deceased seamen's effects.

13. Every collision with any other ship and the circumstances under which the same occurred.

Collisions.

CVI. The entries hereby required to be made in official log-books shall be signed as follows (that is to say): Every such entry shall be signed by

Entries, how to be signed.

the Master and by the Mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the Master and by the Mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service, shall be signed by the Master and by the seaman, or by the Officer authorized to receive the seaman into such service.

Penalties in respect of Official Logs.

CVII. The following offences in respect of official log-books shall be punishable as hereinafter mentioned, (that is to say):—

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the Master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty Rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding three hundred Rupees.

3. Every person who wilfully destroys or mutilates or renders illigible any entry in any official log-book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log-book, shall, for each such offence, be liable to imprisonment, with or without hard labour, for a term not exceeding one year.

Entries in official logs to be received in evidence.

CVIII. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Official logs to be delivered to Shipping Master.

CIX. The Master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final Port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the

Shipping Master before whom the crew is discharged the official log-book of the voyage; and the Master or owner of every Home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the 30th day of June and the 31st day of December in every year, transmit or deliver to some Shipping Master in India, the official log-book for the preceding half-year; and every Master or owner who refuses or neglects to deliver his official log-book as hereby required, shall be subject to a penalty not exceeding two hundred Rupees.

Official logs to be sent Home in case of transfer of ship and in case of loss.

CX. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of Section CIII. of this Act, the Master or owner thereof shall, if such ship is then in any Port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping Master at the Port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding one hundred Rupees; and if any ship is lost or abandoned, the Master or Owner thereof, shall, if practicable, and as soon as possible, deliver or transmit to the Shipping Master at the Port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or adandonment, and in default shall for each offence incur a penalty not exceeding one hundred Rupees.

Depositions to be received in evidence when witnesses cannot be produced.

CXI. Whenever, in the course of any legal proceeding instituted at any Port or place in India before any Judge or Magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the Port or place where such proceedings are instituted), or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the

jurisdiction of the Court in which such proceedings are instituted. Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences on recovery of penalties.

CXII. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII. of 1856, relating to the adjudication of fines and penalties, and the enforcing payment thereof, shall apply to penalties imposed under this Act in the towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Wages, penalties, &c., payable by Master or Owner, may be levied by distress of Ship.

CXIII. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State.

Or (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.

CXIV. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any Foreign Prince or State; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any Foreign Prince or State.

Engagements between Masters of Foreign ships and lascars or native seamen.

CXV. When the Master of a Foreign ship being at any Port in India engages any lascar or other native seaman to proceed to any Port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a Shipping Master in the manner hereinbefore provided for the making of agreements in the case of Foreign-going-ships, and all the provisions of Sections XXI. and XXII. of this Act respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seamen; and the Master of such Foreign ship shall give to the Shipping Master a bond with the security of some approved person resident in India for an amount calculated at the rate of one hundred Rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

CXVI. The fees prescribed in Section VI. of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said Section.

Penalty for Master of Foreign ship engaging native seamen otherwise than is allowed by two last preceding Sections.

CXVII. If any lascar or other native seaman is engaged by the Master of any Foreign ship otherwise than is allowed in the two last preceding Sections, such Master shall be liable to a penalty of one hundred Rupees for every such seaman as engaged. It shall be lawful for the Shipping Master, by himself or his deputy, to enter on board any Foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of Section XXX. of this Act shall be applicable in respect of every such ship.

Shipping Master may board Foreign ships suspected of unlawfully shipping native seamen.

Interpretation.

CXVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

"India."

The word "India" shall mean the Territories which are or may become vested in Her

Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India;" the expression "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of any portion of the said Territories. The expression "Home-trade ship," shall include every ship employed in trading between any Ports of the said Territories; or between any Port of the said Territories and any Port or place on the Continent of India or in the Island of Ceylon. The expression "Foreign-going ship" shall include every ship employed in trading between any Port of the said Territories, and any Port or place not in the said Territories nor on the Continent of India nor in the Island of Ceylon. The word "Master" shall include every person (except a Pilot) having command or charge of any ship. The word "Seaman" shall include every person (except Masters, pilots, and apprentices) employed or engaged in any capacity on board any ship. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "person" shall include a corporation.

"Local Government."

"Home-trade ship."

"Foreign-going ship."

"Master."

"Seaman."

Number.

Gender.

"Person."

Table A.

Fees to be charged for matters transacted at Shipping offices.

1. Engagement or discharge of crews.

						Rs.	As.	P.
In Ships under		100	Tons	...	...	3	0	0
From 100	to	200	"	...	...	7	0	0
200	to	300	"	...	...	10	0	0
300	to	400	"	...	...	12	8	0
400	to	500	"	...	...	15	0	0
500	to	600	"	...	...	17	8	0
600	to	700	"	...	...	20	0	0
700	to	800	"	...	...	22	8	0
800	to	900	"	...	...	25	0	0
900	to	1000	"	...	...	27	8	0
above		1000	"	...	...	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two Rupees and eight annas.

2. Engagement or discharge of seaman separately, one Rupee for each seaman.

TABLE B.

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

	Rs.	As.	P.
From wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward	0	12	0
From wages of all others except apprentices ...	0	8	0
2. In respect of engagements and discharges of seamen separately, upon each engagement and each discharge	0	8	0

Amended by Act XV., 1863, which repeals Sections 17, 21, 81 and 82, and substitutes new provisions for them; and exempts from the operation of Sections 9 to 16 ships registered under Act X., 1841.

NABOB OF THE CARNATIC.

ACT NO. II. OF 1859.

[*Received the assent of the G. G. on the 5th Feb.*, 1859.

Recites proceedings had under Act XXX., 1858, s. 14, and neglect of further proceedings.

1, 2, 3. Limit period for continuing such proceedings.

4, 5, 7. Limits time for filing documents in support; (5) date of filing to be endorsed; and (7) no document to be received after time.

6. Solicitor to Government entitled to examine and take copies.

7. Ante.

8. Particulars under this Act, in place of under Act XXX., 1838.

9. Supreme Court to appoint day for hearing.

10. Proceedings to be as effectual as if under former Act.

11. How claimant may be barred if not appearing.

An Act to amend Act XXX. of 1858 (to provide for the administration of the Estate, and for the payment of the debts of the late Nabob of the Carnatic.)

Obsolete.

CANTONMENT JOINT MAGISTRATES.—REGISTRARS.

ACT No. III. OF 1859.

[*Received the assent of the G. G. on the 7th Feb.*, 1859.

Recites expediency of giving Cantonment Joint Magistrates Civil Jurisdiction and appointing them Registrars.

1. Empowers the Governments to confer Civil Jurisdiction on Joint Magistrate of Cantonment Bazaar. Jurisdiction to be in debt for 200 Rs. over persons subject to Articles of War for Native Army.

2, 3. Jurisdiction under this Act to supersede Courts of Requests, &c., and (3) in Madras and Bombay to supersede existing rules of trial.

4. Jurisdiction under this Act to exclude all other Jurisdiction.

5. Proceedings of Madras Punchayets not to be affected by this Act.

6. Traders not registered as Military Bazaar men not entitled to sue.

7. Prescribes procedure.

8. Plaintiffs bringing false claims may be fined, &c.

9, 10, 11. Executive Governments may appoint Cantonment Joint Magistrates Registrar of Deeds (10) under existing rules (11) to be sworn into Office, &c.

An Act for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds.

Preamble.

Whereas it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registrars of Deeds within the same limits, it is enacted as follows:

Executive Government may invest Cantonment Joint Magistrates with Civil Jurisdiction in certain cases.

I. It shall be competent to the Governor General in Council and to the Executive Government of any Presidency or place to invest the Joint Magistrate of any Military Cantonment Bazaar or Station, within the limits of their respective Governments, with Civil Jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions in which the value in question shall not exceed the sum of two hundred Rupees and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose and at the time of the institution of the suit shall have been or shall be subject to the Articles of War for the Native Army or residing or carrying on trade or business within the limits of

such Military Cantonment Bazaar or Station, and not subject to any Articles of War made by Her Majesty.

Part of Act XI. of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.

II. Whenever the Joint Magistrate of any Military Cantonment Bazaar or Station shall be invested with Civil Jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI. of 1841 as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment Bazaar or Station.

Also the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazaars.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazaars at Cantonments and Stations occupied by the Troops of those Presidencies respectively, shall cease to have effect within the jurisdiction of such Officer.

Persons amenable to the Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazaar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him shall be sued elsewhere.

Saving of Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military Persons.

V. Provided that nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons belonging to that Presidency.

Trader not to recover any debt unless Registered as a Military Bazaar-man.

VI. No person carrying on trade or business within the limits of any Military Cantonment, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business or the loan of money within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the

time of contracting the same, have been registered as a Military Bazaar-man within such Cantonment.

Procedure in cases tried under this Act.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a Mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the Defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon; or if the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI. of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: provided that the decisions of the Joint Magistrate in cases cognizable by him under this Act, shall not be open to revision or appeal: and provided further that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special and shall proceed of his own authority with the execution.

No revision or appeal.

Execution of decrees.

Compensation may be awarded to a defendant if suit be groundless and instituted without probable cause.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate to award against the plaintiff in favor of the defendant such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subjected by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

IX., X. Repealed by Act XVI., 1864.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction or who shall be appointed Registrar of Deeds under the provisions of this Act, shall, previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazaar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registrars of Deeds respectively, or the declarations substituted for such oaths.

Oaths of office.

The Civil Jurisdiction of Cantonment Magistrates under this Act is saved in the Small Cause Courts' Act, No. XI., 1865, s. 12.

REMOVAL OF CONVICTS.

ACT No. IV. OF 1859.

[*Received the assent of the G. G. on the* 10*th Feb.*, 1859.

1. Authorizes G. G. in C., or Local Government with consent of G. G. in C., to remove convicts under sentence to more than three years' imprisonment, &c.
2. Limits Act to one year.
3. Legalizes past removals.

An Act to make further provision for the removal of Prisoners.

Expired.

BEERRHOOM GHATWALEE TENURE.

ACT No. V. OF 1859.

[*Received the assent of the G. G. on the 4th March*, 1859.

Recites the nature of Ghatwalee tenure.

1. Entitles Ghatwals of Beerbhoom to lease Lands for mines and other specified purposes for longer times than their own lives with consent of Commissioner.
2. Same power givens to Court of Wards and Commissioner as to Ghatwalee Lands in charge of Court of Wards.

An Act to empower the holders of Ghatwallee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession.

Whereas, it has been held that the Ghatwals of the District of

Preamble.

Beerbhoom who pay the revenue of their lands directly to Government, under the provisions of Regulation XXIX., 1814, of the Bengal Code, have not the power of alienating the lands; and whereas, for the development of the mineral resources of the country in which the said Ghatwalee lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possessors of such lands, it is enacted as follows:

Ghatwals of Beerbhoom to have the same right of granting leases as is allowed to other proprietors of lands.

I. Ghatwals holding lands in the District of Beerbhoom under provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands. Provided that no lease of Ghatwalee lands for any period extending beyond the lifetime or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals, and similar works; and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Proviso.

Court of Wards and Revenue authorities to have the like power in certain cases.

II. If any of the said Ghatwalee lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the Officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purposes as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

BOMBAY—AHMEDABAD MAGISTRACY.

Act No. VI. of 1859.

[*Received the assent of the G. G. on the 4th March*, 1859.

1, 2. Empowers G. of Bombay to appoint Magistrates and Assistant Magistrates for specified districts; but (2) reserving jurisdiction of Sessions Judge and Sudder F. A.

An Act to empower the Governor of Bombay in Council to appoint a Magistrate for certain Districts within the Zillah Ahmedabad.

Preamble.

Whereas it is expedient to provide specially for the Criminal and Police Administration of such portions of the Zillah Ahmedabad as are mentioned in the Schedule to this Act, it is enacted as follows:

Governor in Council empowered to appoint a Magistrate for the Districts mentioned in Schedule.

Powers of Magistrate.

Examination of Districts from Jurisdiction of the Magistrate of Ahmedabad.

Assistants to the Magistrate.

I. It shall be lawful for the Governor of Bombay in Council to appoint a Magistrate for the Districts mentioned in the Schedule to this Act; and such Magistrate, when so appointed, shall exercise within the said Districts all the powers of a Magistrate as defined in the general Regulations of the Bombay Code and the Acts of the Legislative Council. Upon the appointment of a Magistrate under this Act, the said Districts shall be exempt from the Jurisdiction of the Magistrate of Ahmedabad. It shall also be lawful for the said Governor in Council to appoint so many Assistants to the said Magistrate as may be required.

Jurisdiction of the Session Judge of Ahmedabad and the Sudder Court.

II. Nothing contained in the preceding Section shall be held to remove the said Districts from the Jurisdiction of the Sessions Judge of Ahmedabad or of the Sudder Foujdaree Adawlut.

SCHEDULE OF DISTRICTS.

[*See Section I.*]

Names of Villages under the Gogo Pergunnah.

1	Bhownuggur itself	14	Hathub
2	Joona Wudwa	15	Khudsulioo
3	Rooha	16	Bhudbhudioo
4	Ukwarra	17	Alapoor
5	Udhewrarra	18	Thulsur
6	Tursumiya	19	Iokunka
7	Malunka	20	Khudurpoor and Meeteerveerdee
8	Bhooteshur	21	Inspoora
9	Bhoobhulee	22	Mandwa
10	Ruttunpoor-Joona	23	Sonshiya
11	Ruttunpoor-Nooa	24	Panialee
12	Goondhee	25	Trapuj
13	Koliak	26	Buparra

Names of Villages under the Gogo Pergunnah.—(Continued).

27	Panchpeepla	52	Nessura
28	Rajpoora	53	Rajpoora, 2nd
29	Bordee	54	Khakuria
30	Rajawuddur	55	Kurdej
31	Wartej	56	Naree
32	Phoolsur	57	Bhoodhel
33	Sondwudra	58	Kobree
34	Phuriadka	59	Bhuree
35	Seedsur	60	Bhundaria
36	Kurmudia	61	Choodee
37	Pheethulpoor	62	Sankudasur
38	Shampoora	63	Bharolee
39	Sheehore	64	Nagdhuneeba
40	Oosurud	65	Surtanpoor
41	Soorka-Mota	66	Wowree
42	Agialee	67	Thordee
43	Tanah	68	Rampoor
44	Khantree	69	Soorka
45	Turuckpalree	70	Shedawuddur
46	Dewgana	71	Jamballa
47	Rutteupoor, near Tanah	72	Bhensowree
48	Wudia	73	Kuchotia } Waste
49	Wullawnr	74	Cheerora } Waste
50	Megwuddur	75	Jaujra } Waste
51	Ghangulee	76	Kalvee } Waste

Names of Villages under the Dhumdooka Pergunnah.

1	Patna	17	Kanootulow
2	Bhurbheer	18	Wooljulwow
3	Chukumpoor	19	Sandeda
4	Ruttunwow	20	Otaria
5	Keria	21	Jotimura
6	Jumrala	22	Nagulpoor
7	Sumundeala, 1st	23	Sherthulee
8	Kariance	24	Dheekwallee
9	Latheedhur	25	Wâjelee
10	Surwnee	26	Loundhurra
11	Jhinjawuddur	27	Malpura
12	Pattee	28	Dhatuerlia
13	Keria, near Pattee	29	Welawuddur
14	Bhanbhun	30	Veerdee or Rajghur
15	Sumundeala, 2nd	31	Sujelee
16	Tajpoor		

Names of Villages under the Rampoor Pergunnah.

1	Botad	6	Toorkha
2	Hurdur	7	Kamar
3	Seerwania	8	Rajpoora
4	Dankunia	9	Juria
5	Khakhoee		

CUSTOMS DUTIES.

ACT No. VII. OF 1859.

[*Received the assent of the G. G. on the 14th March*, 1859.

1. Repeals, except as to Salt and Opium, Schedules A. and B. of Act XIV., 1836; VI., 1844; IX., 1845, and I., 1852, and so much of ss. 2, 3, and 4, of Act XXX., 1854, as relates to export and import duties.

2, 3. Extend all existing Customs' regulations to new duties, and except free ports, and (3) exports of Teak timber from Arracan, Pegu, Martaban, and Tenasserim Provinces.

4. Entitles importers to charge the new duties to purchasers of goods not yet arrived or cleared.

5. Act to take effect from the 12th March.

Shedules. A. Import duties. B. Export duties.

An Act to alter the Duties of Customs on goods imported or exported by sea.

New Schedules of Duties established by Act X., 1860, and repealed by Act VI., 1863; New Schedules again by Act XVII., 1865, which were repealed by Act XXV., 1865, and again New Schedules enacted. The Export and Import Duties are now contained in Act XVII., 1867, "The Indian Customs' Duties Act, 1867," except as to Salt and Opium.

The New Schedules are contained in Act XVII., 1867.

THE CODE OF CIVIL PROCEDURE.

ACT No. VIII. OF 1859.

[*Received the assent of the G. G. on the 22nd March*, 1859.

Recites expediency of simplifying the Civil Procedure of Courts not established by Royal Charter.

1—15. JURISDICTION.—(1) to extend to all civil suits, except contrary specially enacted, (2) and to suits already heard, &c., by competent Court: and (3) judgments to be revised, &c., only as by this Act is provided. (4) No person to be exempt by reason of birth or descent. (5) Suits for land, &c., to be brought in Local Court: and other suits where cause of action arose, or defendant at time of suit resides, &c. (6) Suit to be instituted in Court of lowest grade competent to try it, but may be removed by District Court or Sudder Court. (7) Cause of Action not to be split, but part may be abandoned. (8) Any number of causes of action may be joined, but (9) Court may order separate trials. (10) Land and mesne profits separately recoverable. (11) Land in several local jurisdictions but within the district may be sued for by leave of District Court: or (12) by leave of Sudder Court where they

are in different districts, or, (13) if different Sudder Courts have jurisdiction, by leave of either with concurrence of other. (14) In suits for border lands, Court to decide if the lands are within its jurisdiction. (15) Suits may be for merely a declaratory order.

16—24. Preliminary Rules.—(16) Appearance to be in person by pleader or agent; (17) who may be agents, and the effect of agency, (18) respecting appearance by pleaders; (19 and 20) respecting appearance of Officers or Soldiers; (21) women exempted from personal appearance; (22) Government may grant exemption to persons of rank. (23) Expense of serving process to be borne by person issuing it. (24) False verification of plaint punishable as forgery.

25—40. Institution of Suits.—(25) Suits to be commenced by plaint; (26) what the plaint shall contain; (27) to be verified by plaintiff; and (28) in his absence, how. (29) Consequences of defects in plaint; (30) plaint to be returned if value beyond jurisdiction, or (31) rejected if insufficiently stamped; or (32) for no valid cause; and (33) returned if brought in wrong Court. (34) Plaintiffs resident in India and not having land, &c., in India, to give security for costs; and (35) sole Plaintiff non-resident may be required to give security at any stage, &c. (36) Rejection of plaint appealable. (37) Rule in case of suit for land situate in several jurisdictions. (38) Plaint to be registered in a book; and (39) when on document, document to be produced and copy filed. (40) Plaintiff may require from defendant copy of document.

41—46. The Summons—(41) to specify what; (42) and for what appearance; and (43) for documents; (44) form of the Summons; (45) when returnable; (46) peculiar in suits against Company, &c.

47—72. Its Service.—(47) By whom; (48) how; (49) on whom; (50 and 51) on special agent; (52) on Government pleader for Government; (53 and 55) how, when defendant not found; (54, 56) duty of serving officer on service; (57) how when defendant keeps out of the way; (58) respecting substituted service; (59) how when defendant resident within another jurisdiction; how (60) when resident abroad; (61) respecting service in suits for immoveable property; (62) when suit is against Government servant; (63) when against Corporation. (64) Court may for summons substitute letter, &c., (65) and send it by post; (66) registered. (67) How to be served in suit against Government; and (68) how against Government officers; and (69) Court may grant them time to refer to Government; and (70) if Government defends, Government pleader may appear, &c., or (71) on default suit to proceed; (72) appearance of public officer may be dispensed with.

73. Parties.—Parties may be added.

74—80. Arrest of Person.—(74) Under what circumstances plaintiff may require security, and (75) warrant may be issued to arrest defendant; and (76) bail may be required; or (77) deposit in lieu of bail; or (78) defendant may be committed. (79) In case of vexatious proceedings for arrest, compensation may be given to defendant. (80) Provides for case of defendant about to leave India.

81—91. ATTACHMENT.—(81) Under what circumstances an attachment of property may be obtained. (82) Application for, what it shall specify; and (83 & 84) how Court shall proceed; (85) how to be made; and (86) adverse claims how to be dealt with; (87) security may be taken in lieu of attachment. (88) Compensation may be given on vexatious application. (89) Effect of attachment. (90) Attachment may be stayed if suit fraudulent. (91) Respecting lands liable to be sold for arrears of revenue.

92—96. INJUNCTIONS.—(92) Under what circumstances injunction against waste, &c., may be obtained, and receiver, &c., be appointed; and (93) injunctions against breach of contract, &c. (94) Order for injunctions appealable. (95) Proceedings on application for; and (96) if vexatiously applied for compensation may be ordered.

97—98. WITHDRAWAL OF SUITS.—(97) Suits may be withdrawn by leave of Court; or (98) compromised, and with what effect.

99—106. DEATH, &c., OF PARTIES.—(99) Death of either party not to abate the suit, but (100 & 101) representative of deceased may be made a party or not according to the nature of the interest. (102) If sole plaintiff dies, Court may abate suit, &c., or (103) right to be admitted as representative, if disputed, to be tried. (104) Rules in case of death of defendant. (105) Marriage of female party not to abate suit. (106) Bankruptcy, &c., of plaintiff to abate suit, unless assignees give security for costs.

107, 108. NOTICES TO PRODUCE.—(107, 108) How to be served.

109—119. APPEARANCE AND NON-APPEARANCE.—(109) Hearing to be on day fixed for appearance; (110) if neither party appears suit to be dismissed, &c., or (111) if only plaintiff appears hearing may be *ex-parte*; except (112) on case of non-proof of service of summons, &c., or (113) of summons being not served in time. (114) If only defendant appears judgment by default to be given against plaintiff. (115) Joint parties may appear, &c., for one another, &c.; (116) or Court may proceed on appearance of some only. (117) Respecting parties who do not appear after order to appear; but (118) they may show excuse. (119) *Ex-parte* judgments not appealable, but may be set aside and how, &c.

120—124. WRITTEN STATEMENTS.—(120) Parties may put in written statements. (121) Defendant, statement of set-off (122) when to be put in; and (123) how to be framed, &c., (124) in regard to prolixity, &c.

125—127. EXAMINATION OF PARTIES.—(125) Parties and pleaders may be examined; and (126) judgment may be given against party refusing to answer; and (127) party may be required if pleader refuses to answer.

128—138. DOCUMENTS.—(128) When to be produced; (129) may be rejected by Court; (130) defect of Stamp on to be received by payment of penalty; accounts of which (131) to be kept. (132) Exhibits to be marked and (133) not liable to stamp duty; and (134) if rejected, retained; and (135) if admitted kept where; except (136) in specified cases; and (137) receipt for to be given when returned. (138) Court may send for its own records.

139—143. SETTLEMENT OF ISSUE AND ISSUES BY AGREEMENT.—(139)

Court to frame Issues; and (140) make examination for purpose; and (141) may amend the Issues, &c., or (142) Issues may be agreed by parties; and (143) Court may give effect to agreement.

144, 145. First Hearing.—(144) Court may give judgment at once if parties not at Issue, or (145) if they are at Issue.

146—148. Adjournment.—(146) Court may adjourn hearing; and (147) decide on day of adjournment whether parties appear or not; or (148) produce evidence or not.

149—160. Summoning of Witnesses and Service of Summons.—(149) Court may summons witnesses. (150) Application for summons need not be stamped; (151) but expense of witness must be prepaid. (152) Summons shall specify what, and (153) if to produce document; (154) to be served how and when; and (155) on whom, and (156) returned if not served; and (157) service when made to be endorsed. (158) Summons on witness how to be served. (159) If witness abscond, &c., his property may be attached; and (160) released on his appearance.

161—166. Examination of Parties.—(161) Parties may be examined (162) by order of Court, (163) unless cause shown to the contrary; (164) it may be shown in writing; but (165) if good cause not shown order to be made. (166) Court may examine parties for its own satisfaction.

167—171. Attendance of Witnesses.—(167) Witness bound to attend; and (168) in default of attending may be apprehended; and (169) being present and refusing to give evidence, &c., may be committed; and (170) refusing to produce document, Court may exercise its own discretion. (171) Any person in Court may be examined.

172—174. Witness when and how Examined.—(172) To be examined at the hearing in Court, orally, interpreted when, and when in English; questions when to be taken down; Judge to make abstract notes of the evidence, or record his reason for not doing so. (173) Witness about to leave jurisdiction may be examined where, &c. (174) All witnesses to be examined on oath or affirmation.

175—182. Commissions to Examine Witnesses.—(175) Witness at distance of more than 100 miles and in other specified cases may be examined under Commission. Commission to issue to whom; and (176) in Presidency towns to Small Cause Courts, &c. (177) Commission to be issued by whom, and when by District Court; and (178) when by direction of Sudder Court. (179) Commission, how to be returned, and on what condition evidence to be read. (180) Commission may be issued for a local investigation, and what should be done on return of it. (181) Commission may be appointed to investigate accounts. (182) Court may require deposit of costs of Commission from party requiring it.

183—198. Judgment and Decree.—(183) Judgment to be pronounced in open Court, (184) in writing in vernacular of the Judge, or in English, and (185) shall contain what points; and (186) shall decide on every issue; and (187) award the costs at its descretion. (188) Costs are to include what,

&c. (189) Decree shall contain what; (190) where the suit is for land, and (191) when for moveable Property; and (192) when for damages it may be for specific performance; and (193) if for money, it may give interest; and (194) time to pay by instalments; (195) if set-off allowed amount, &c., to be decreed and balance stated for whichever party, &c., and (196) in suits for land, mesne profits and interest on them may be decreed; or (197) inquiry into mesne profits may be reserved. (198) Parties entitled to certified copies of judgment and decree, &c.,

199—206. Execution of Decrees.—(199) Land and (200) specific chattels to be delivered to whom adjudged; in, other cases decree enforced by attachment of property, &c., or (201) by attachment and sale of property, or imprisonment against Government, how; (202) how for execution of conveyance, &c.; (203) how against representatives of deceased persons; (204) against sureties as against their principals. (205) Describes the kinds of property which may be sold in satisfaction. (206) All money realized in satisfaction to be paid into Court.

207—220. Application for Execution and Incidents.—(207) May be made by one of several decree-holders, or (208) by assignee of decree-holder and (209) Cross decrees may be set-off against one another. (210) May be made against representative of deceased, and (211) executed against him how. (212) Shall be in what form generally, and (213) what, when intended against immoveable property; (214) what when against moveable. (215) How the Court shall proceed in general; and (216) how, if decree be more than a year old, or enforcement be asked of heir, &c., and (217) in case no cause against be shown. (218) Applicant may be required to give security to indemnify; and (219) execution debtor may be summoned in same manner, (220) as if witness, &c.

221, 222. Issue of Warrant.—(221, 222) What the warrant shall contain.

223—231. Execution against Immoveable Property.—(223) To be by delivery in fact, or (224) by notice and proclamation subject to rights of occupancy. (225) To be how, if for division of an estate or share, &c. (226) If obstructed, complaint may be made to Court; and (227) Court may make proper order; (228) and in specified cases may imprison defendant; or (229) if obstructor be *bonâ fide* claimant Court may investigate claim, and (230) may investigate claim of title set up for third parties; and (231) in two last cases, order appealable.

232—245. Execution of Decree for Money.—(232) To be by attachment of property; (233) in what manner when goods, &c., in possession of debtor; and (234) when in possession, &c., of third person; (235) when lands, and (236) when debts, &c., not negotiable: (237) when in deposit, &c., in Court of Justice; (238) when negotiable instruments. (239) Notice of attachment by prohibitory order, how to be given; (240) after which alienation to be void; and (241) debt may be paid into Court; and (242) Court may dispose of property; or (243) may appoint a manager and raise

money to mortgage; or (244) by other means on representation of Collector. (245) Attachment to be taken off, on satisfaction of decree.

246, 247. Of Claims to attached Property.—(246) To be investigated and how; (247) unless delayed, &c.

248—272. Of Sales in Execution.—(248) To be by public auction, or, in case of shares, &c., through brokers; and (249) after proclamation and how, and time when; and (250) attachment and sale may be under one order; (251) selling Officer may direct how payment shall be made, if sale be of goods; (252) sale not to be vitiated by irregularity; (253) deposit to be paid on immoveable property; (254) payment to be completed by 15th day, or re-sale to be made; and (255) on re-sale fresh notification to be made; (256) sale of immoveable property to require confirmation; and (257) if not confirmed deposit or price to be returned; (258) also if sale set aside; and (259) Certificate to be given to purchaser; and (260) in name of actual purchaser only; and (261) if sale of moveables, delivery to be given to purchaser; or (262) to be secured by notice, if lien exists; and (263) delivery to be given of immoveables, in possession of defendant; or (264) if in possession of ryots, change of interest to be notified; (265) how, in case of shares in Companies, &c.; (266) negotiable instruments to be delivered (267) with an endorsement, if necessary; (268) what shall be done, if execution be resisted, by defendant, and (269) what if resistance be by stranger; (270) execution to have priority in order of execution, not of judgment; (271) decree-holders without execution to come in rateably; (272) execution obtained by fraud may be applied to satisfy *bonâ fide* decree.

273—275. Of Arrest in Execution for Money.—(273) Discharge from may be obtained under what circumstances; (274) application how to be proceeded with; (275) discharge no protection if obtained by false statement.

276—283. Execution by Imprisonment.—(276) Defendant entitled to subsistance money at what rate; which (277) may be varied in specified cases, (278) defendant to be released on satisfaction of debt, request of creditor, or default to pay subsistance money; (279) subsistance money to be added to decree; (280) defendant may be discharged on surrender of his property; (281) after inquiry (282) not to be subject to second arrest on same decree except in case of fraud, &c.; (283) how reserved questions of interest, &c., under decree are to be disposed, &c., &c.

284—296. Execution in Foreign Jurisdiction.—(284) Decree may be executed in limits of other Jurisdiction; (285) by transmitting copy of decree, &c., to Foreign Court; (286) with order, &c., for Foreign Court to execute; (287) what Foreign Court shall execute, &c., (288) as a decree of its own; and (289) may punish wrongful acts, &c.; or (290) may in certain cases stay execution, &c., for defendant to apply to original Court, &c., (291) first taking security if it thinks proper; (292) after which, order of original Court to be final (293) and defendant may be re-taken; and (294) orders of Foreign Court to be appealable; (295) execution in military Cantonments, how to be enforced; (296) and rules for execution of decrees to apply to execution of all Judicial orders.

297—311. Pauper Suits.—(297) Suits may be brought *in formâ pauperis* in all the Courts, except (298) for loss of caste, slander, &c. (299) Permission to be obtained by petition on stamped paper, (300) containing what particulars; (301) to be presented in person except by permission of Court and in case of female; otherwise (302) to be rejected; (303) petitioner to be examined as to merits of claim, &c.; and (304) rejected on what grounds; (305) if not rejected, defendant to be summoned, &c.; (306) decide on the petition after cause shown; (307) local inquiry may be ordered; (308) if granted, petition to stand for plaint, &c., (309) stamps to be debited in suit, &c. (310) Refusal of petition not to bar right to sue; (311) orders on petition not appealable.

312—327. Reference to Arbitration.—(312) Parties may obtain leave to refer to arbitration; (313) application to be made, how; (314) arbitrators to be named by parties, &c.; (315) order of reference to describe the matters referred; and (316) provide for umpirage; (317) arbitrators to have what powers; (318) Court may enlarge time for making award, &c., and (319) in case of death, &c., may appoint new arbitrators; (320) award to be submitted to Court with documents, &c., and (321) arbitrator may state special case for opinion of Court; and (322) may alter award, &c., or 323 in specified cases refer it back; and (324) award to be set aside, except for corruption or misconduct of arbitrators; and (325) Court, except in excepted cases, to give judgment according to award, &c., and (326) agreement to refer any differences without suit may be made rule of Court, and enforced, &c., also (327) award without previous rule of Court may be enforced by Court.

328—331. Proceedings on Agreements of Parties.—(328) Issues may be received for opinion of Court; (329) how to be filed; (330) filing to give Court Jurisdiction; and (331) how to be heard, &c.

332—337. Appeals.—(332) Gives an appeal, (333) limits time and prescribes form, (334, 5, 6) further rules respecting forms; (337) gives right to one of several parties to appeal.

338—340. Staying Execution for Appeal.—(338) Execution not to be stayed except for special cause shown; (339) and on stay, securities may be required; (340) except from Government.

341—362. Procedure in Appeals.—(341) Appeal, how to be entered; (342) security may be required from Appellant; (343) admission of appeal to be notified to lower Court; (344) Day to be fixed for hearing; (345) of which notice to be given; (346) may be dismissed for default of appearance; (347) may be re-admitted, (348) respondent may object to lower Court's decision as well as appellant; (349) Court, how to give judgment; (350) judgment not to be reversed for irregularity; (351) case may be remanded; (352) when it may not be remanded; (353) appellate Court not confined to grounds of Lower Court; (354) Appellate Court may direct trials; (355) or call for fresh evidence; (356) to be taken, how; (357) and how limited; (358) general powers of Appellate Court; (359) Court to give judgment in what language; and (360) what the decree is to contain; (361) how to be certified to Lower Court; (362) judgment of, how to be executed.

363—366. APPEALS FROM ORDERS.—(363) No appeal from interlocutory order; (364) nor for orders relating to execution; (365) but orders for fines, &c., appealable; (366) appeal from, to be as in other cases.

367—371. APPEALS IN FORMA PAUPERIS.—(367) Parties unable to pay stamp duties may appeal *in formâ pauperis*; (368) on leave, and how to be applied for; and (369) in what form; (370) to be proceeded with, how, and (371) effect of order.

372—375. SPECIAL APPEALS.—(372) Grounds on which they may be brought; (373) Leave of S. Court must be given (374) and application must set forth grounds, (375) and may be rejected if in wrong form.

376—380. REVIEW OF JUDGMENT.—(376) On what grounds review may be obtained, and (377) within what time; (378) refusal of, final (379) to what Judges in the Sudder, and (380) how to be proceeded with.

381—388. MISCELLANEOUS.—(381) Empowers Sudder Court to make rules of practice. (382) Act not to extend to Supreme and Presidency Small Cause Courts. (383) Saves Jurisdiction, &c., of Moonsiffs and Village Punchayets in Madras, and of specified Military tribunals and Punchayets, and (384) certain specified Jurisdictions; (385) and Act not to extend to non-regulation parts till extended thereto; (386) interprets words, &c.; (387) Act to commence from 1st July, 1859, in Bengal, and 1st January, 1860, in Madras; and (388) to supersede all other procedure. SCHEDULES A., B., C. and D.

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

Whereas, it is expedient to simplify the Procedure of the Courts of Civil Judicature not established by Royal Charter, it is enacted as follows:—

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts have cognizance of all suits unless specially barred.

1. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay respectively, or by any Act of the Governor General of India in Council.

Unless suits previously heard and determined.

2. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of judgment of the Civil Courts.

3. The judgments of the Civil Courts shall not be subject to revision, otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellate Jurisdiction.

No person excepted from jurisdiction by reason of place of birth or of descent.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction of Civil Courts.

5. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if in the case of suits for land or other immoveable property such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases, if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell, or personally work for gain, within such limits.

Court in which suit to be instituted.

Transfer of suits.

6. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court and to try such suit itself or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal which may be instituted in any Court subordinate to such Sudder Court shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may in certain cases order separate trials of such causes of action.

9. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claim for recovery of land for mesne profits to be deemed distinct causes of action.

10. A claim for the recovery of land and a claim for the mesne profits of such land shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Suits for immoveable property situate within different jurisdictions of the same District.

11. If the suit be for land or other immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immoveable property situate in different District

12. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it within the jurisdiction of which any portions of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Sudder Courts.

13. If the Districts within the limits of which the property is situate, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District in which the suit brought is subject; and the Sudder Court to

which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction and alleged by the defendant to be within another local jurisdiction.

14. If in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit.

Proviso.

Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Declaratory Suit.

15. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right, without granting consequential relief.

CHAPTER II.

Preliminary Rules.

Parties may appear in person or by recognised agent or by pleader.

16. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise especially provided by this Act, shall be made by the party in person, or by his recognised agent, or by a pleader duly appointed to act on his behalf.

Recognised agents.

17. The recognised agents of parties by whom such applications and appearances may be made are—

Persons holding powers of attorney.

1*st*. Persons holding general powers of attorney from parties not within the jurisdiction of the Court, authorising them to make such applications and appearances on behalf of such parties.

2ndly. Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons carrying on trade or business for absent persons.

3rdly. Persons being *ex-officio* or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons authorized to act for Government.

4thly. Persons specially appointed by order of Government at the request of any Sovereign, Prince, or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Persons specially appointed to prosecute a suit for any Sovereign Prince.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and any thing which by this Act is required or permitted to be done by a party in person may be done by his recognised agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agents.

Acts required to be done by a party to a suit in person may be done by his recognized agent.

Service of notice, &c., on recognized agent.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in the Court. All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Appointment of Pleader.

Service of notice on pleaders.

Officers or soldiers who cannot obtain leave of absence may authorize any person to appear for them.

19. When an Officer or soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersign the same, and it shall be filed in the Court. When so filed, the counter signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

The person so authorized may appear personally, or appoint pleader.

20. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the Officer or Soldier could do if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a pleader appointed by him.

Exemption of certain women from personal appearance.

21. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may exempt certain persons from personal appearance.

22. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdic-

tion of the Principal Civil Court of each District shall from time to time be forwarded to such Court by the Local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

Cost of serving process.

Requisite sum to be paid into Court before process issued.

23. Every process required to be issued under this Act, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the cost of such service shall be paid into Court before the process is issued. [Repealed by Act XXIII., 1861.]

Punishment for false verification of plaint, statement, &c.

24. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

CHAPTER III.

Of a Suit till Final Decree. Of the Institution of Suits.

[Extended by Act IX., 1860, s. 4.]

Suits to be commenced by plaint.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court, and shall contain the following particulars:—

1. The name, description, and place of abode of the plaintiff.

2. The name, description, and place of abode of the defendant, so far as they can be ascertained.

3. The relief sought for, the subject of the claim, the cause of action, and when it accrued; and if the cause of action

accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:—

If the suit be for money due on a bond or other written instrument:—Payment of due on (*a bond or other written instrument, as the case may be*), for the sum of , bearing date the day of and payable on the day of , namely,—

Principal	
Interest	
Amount paid (if any)	
Balance due ...	

If the plaintiff claim exemption from any law of limitation say—"The plaintiff was an infant (*or, as the case may be*) from the day of to the day of ."

If the suit be for the price of goods sold:—Payment of on account of maunds of (*rice, indigo, sugar, or, as the case may be*) sold on the day of and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any)*].

4. When the claim is for any property other than money its estimate value.

The following is an instance:—

If the suit be for an estate or for a share in an estate paying Revenue to Government—Possession of the estate or of share in the estate, called , situate in the Zillah of the sudder jumma of which is and estimated value which the plaintiff was dispossed (*or forcibly or fraudulently dispossessed, if the case be so*) on the day of ; or to which the plaintiff became entitled by inheritance from (*or by gift, purchase, or otherwise, as the case may be*) on or about the day of

5. When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified; and if the claim be for land forming part of a village or other known division or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

In all suits by or against, the Government, or one of its Officers in his official capacity, or any Corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of ," or otherwise, as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of the Company, shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties. [See 21 and 22 Vic., c. 106.]

Plaint to be subscribed and verified.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect:—

I (A. B.), the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my information and belief.

If plaintiff, by reason of absence be unable to subscribe, and verify the plaint.

28. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification.

In suits by a Corporation or Company, a Director or Secretary shall verify the plaint.

In suits by a Corporation or a Company authorised to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

Court may reject plaint if it do not contain the required particulars, &c.

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified, whether relevant

to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as hereinbefore required, the Court may reject the plaint, or, at its discretion, may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

31. If it appear to the Court that the claim is improperly valued, or being properly valued that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if it appear to the Court that Plaintiff has no cause of action or that right of action is barred by lapse of time.

Amendment of Plaint.

32. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided that the Court may in any case allow the plaint to be amended if it appear proper to do so.

Plaint to be returned if it appear to the Court that it has not jurisdiction.

33. If it appear to the Court that the cause of action did not arise, or that the defendant is not dwelling or personally working for gain within the limits of the jurisdiction of the Court, or, if the claim relate to land or other immoveable property, that such land or other property is not situate within such limits the Court shall return the plaint to the plaintiff in order to its being presented in proper Court. [Repealed by Act XXIII., 1861.]

Security for costs to be furnished by Plaintiff at the time of presenting the plaint, if he resides out of the British territories in India.

34. A suit by a party ordinarily residing out of the British territories in India and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint or within such

time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Plaint to be rejected if security be not furnished.

35. If in any stage of a suit it shall appear to the Court that plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Security for costs may be required in any stage of suit, if it appear that Plaintiff resides out of India.

36. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Appeal from order rejecting plaint.

37. If the suit be for land or other immoveable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

Proceeding in a suit for immoveable property in different jurisdictions.

38. If the Court consider the plaint admissible, the particulars mentioned in Section 26 of this Chapter shall be entered in a book to be kept for the purpose and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A.) hereunto annexed.

When the plaint is admissible, particulars to be entered in a Register.

Form of the Register.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented,

Written document to be produced in Court when plaint is presented.

and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

And copy filed with plaint.

Original to be marked and returned.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

Document not produced when plaint filed, to be inadmissible in evidence.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document in possession of defendant.

Of Summoning the Defendant.

41. When the plaint has been registered, a summons under [the signature of the Judge] and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly. [Bracketed

On plaint being registered, summons to issue to defendant.

Summons to be either to settle the issues, or for the final disposal of the case.

part altered by Act XVIII., 1863, s. 10, as respects High Court of Calcutta, and see s. 12.]

Personal appearance of defendant or plaintiff.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance.

If resident within 50 miles.

Or within the local jurisdiction of the Court.

Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Summons shall order defendant to produce documents.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Form of summons.

44. The summons shall be in the Form contained in the Schedule (B.) hereunto annexed or to the like effect.

The day for appearance of defendant, how to be fixed.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a Pleader on such day.

Court may order personal appearance of a Director or Security in suits against a Corporation or Company.

46. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit.

Service of Summons on the Defendant.

47. The summons shall be delivered to the Nazir or other

Summons shall be served by Officer of Court.

proper Officer of the Court, to be served by himself or one of his subordinates, and such Officer shall be responsible for its due service.

How service shall be made.

48. Service of the summons shall be made by delivering or tendering a copy thereof, under the signature of the Judge and seal of the Court; and

When there are several defendants.

when there are more defendants than one, service of the summons shall be made on each defendant.

Service to be on defendant in person, when practicable.

49. Whenever it may be practicable the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in

Service on agent sufficient.

which case service on such agent shall be sufficient.

Who may be an agent to receive service.

50. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Appointment of such agent to be in writing, and to be filed in Court.

51. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Agent of Government.

52. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

If defendant cannot be found, and has no agent, service may be made on a male member of his family.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

In all cases the person served is to be required to endorse the summons.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be

endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

But service is sufficient without.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling: and if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

If defendant do not dwell in the place mentioned, the summons shall be returned with an endorsement of non-service.

Proviso.

56. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons, or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

If served, time and manner of service to be endorsed on summons.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

When service is substituted, the time for appearance to be fixed.

58. Whenever service shall be substituted by order of Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

How the summons is to be served when the defendant is resident within the jurisdiction of another Court, and has no agent to accept service.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon the receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How the summons is to be served when the defendant resides out of the British Territories in India, and has no agent to accept service.

60. If the defendant be resident out of the British Territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post; in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

Time for appearance.

In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

61. When the suit is for land or other immoveable property,

In suit for immoveable property, service may in certain cases be made on agent in charge of such property.

and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service may be made on Government Servants.

62. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the Office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgment of the person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted, with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on Officers and Soldiers.

Service on a Corporation or Company.

63. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

In what case a letter may be substituted for a summons.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication

shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service, how to be made in such case.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of Judicial process, in which case delivery to such agent shall be deemed sufficient service.

Proof of due service and delivery of summons, letter, &c., transmitted through the post.

66. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII. of Act XVII. of 1854 (*for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office*), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

Of Suits Against Government and Public Officers.

In suits against Government, summons to be served on Government Pleader.

67. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

Appearance and answer.

In suits against Government Officers for alleged Official acts, summons to be served on them.

68. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time to enable Officer to make a reference to Government.

69. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court, upon such motion, may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that a note of his appearance be entered in the Register.

70. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such motion be made, case to proceed as in a suit between private parties.

But defendant not liable to arrest before judgment.

71. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant, shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

How Persons not before the Court may be made Parties to a Suit.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit,

as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Of Arrest before Judgment.

In suits for moveable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.

74. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the Defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the Defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail.

76. If the defendant fail to show such case, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court, under the provisions of this Section, shall be open to appeal by the defendant. [Modified by Act XXIII, 1861, s. 24.]

Appeal.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Deposit in lieu of bail.

78. In the event of the Defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree if the Court shall so order.

Defendant to be committed to custody if he cannot give security.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

Compensation to defendant arrested on insufficient ground.

Proviso as to amount.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

When the defendant is about to leave India, the application to be made to the Court.

Of Attachment before Judgment.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application, how to be made.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof, and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court, when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

Withdrawal of attachment.

How the attachment is to be made.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Appeal.

Claims to property attached before judgment, how to be investigated.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed when security is furnished.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of the attachment.

Compensation for attachment applied for on insufficient grounds, &c.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court, that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Proviso.

Attachment not to affect the rights of person not parties to the suit, or bar the execution of decrees.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposition that the decree, in satisfaction of which the sale of the property is applied for was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Court may stay the sale of property already under attachment when execution of a decree fraudulently obtained is applied for.

91. Whenever lands paying revenue to Government or a tenure liable to summary sale under the provisions of Regulation VIII., 1819, of the Bengal Code (*to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars, &c.*) from the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security, at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the Defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of account which may be directed in the final decree upon the suit.

Special case in which party may be put in immediate possession of land the subject of suit.

Of Injunctions.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying, and preventing him from wasting, damaging,

Cases in which an injunction to stay waste, &c., may be granted.

or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be, from the possession or custody thereof, and to commit the same to the custody of such receiver or manager, and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits as to the Court may seem proper. If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such receiver.

Or in which a receiver or manager may be appointed.

When the Collector may be appointed receiver or manager.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction to restrain the defendant from the repetition, or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always that any

In suits to restrain breach of contract, &c.

Injunction to restrain repetition or continuance of breach.

order for an injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Proviso.

94. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Appeal.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Before granting injunction, Court may direct reasonable notice to be given to the opposite party.

96. If it shall appear to the Court that the injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense of injury occasioned to him by the issue of the injunction. Provided that the Court shall not award a larger amount of compensation under this section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Compensation to defendant for needless issue of injunction.

Proviso.

Of the Withdrawal and Adjustment of Suits.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp duty paid on the plaint if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined. Provided however that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

Adjustment or compromise.

Court may grant certificate for refund of stamp duty on plaint if suit be adjusted.

Proviso.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

Suit not to abate by death in certain cases.

100. If there be two or more plaintiffs or defendants and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survives.

101. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and

Proceeding in case of death of one of several plaintiff's where the cause of action accrues to the survivor and the representative of the deceased.

the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in, and shall be bound by the judgment given in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

102. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the representative of such plaintiff, enter the legal name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable cost which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants or of a sole or sole surviving defendant.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a

sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit: and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant, and had been a party to the former proceedings in the suit.

Marriages of a Female plaintiff or defendant not to abate the suit.

105. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the Assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the Assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Of Notices to Produce, and how they are to be Served.

107. Whenever any of the parties to a suit is desirous that

Two notices in writing to be delivered to the proper Officer of the Court.

any document, writing, or other thing; which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing, has not previously been required, under the provisions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party.

Service of notices and other judicial process how to be made on a party who has not appointed a pleader to act for him.

108. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

Of the Appearance of the Parties, and Consequences of Non-appearance.

Parties must appear in person or by pleader.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear either in person or by a pleader when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the rules for the limitation of actions, or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

If plaintiff only appear, Court may proceed *ex-parte* if due service of summons be proved.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex-parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If defendant appear on day of adjourned hearing, and assign good cause for previous non-appearance, he may be heard.

If plaintiff only appear and due service of summons be not proved, Court may order issue of second summons.

112. If the plaintiff shall appear in person or by a pleader and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and service of summons be proved, but the service was not in due time, Court may adjourn hearing, and direct notice to be given to defendant.

113. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court and may direct notice of such day to be given to the defendant.

If defendant only appear, Court to pass judgment by default against plaintiff, unless defendant admit the claim.

114. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

No fresh suit after such judgment.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

116. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several plaintiffs.

Consequence of non-appearance of one or more of several defendants.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively who do not appear either in person or by pleader.

Consequence of non-appearance without sufficient cause shown of any party to suit summoned or ordered to appear in person.

118. In support of the cause shown by a plaintiff or defend-

Court to receive declaration in support of cause shown.

ant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints.

No appeal from judgment passed *ex-parte* or by default.

118. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex-parte* against a defendant he may apply within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit.

When and how judgment *ex-parte* against a defendant may be set aside.

When and how judgment by default against a plaintiff may be set aside.

In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit.

No judgment to be set aside, without notice to opposite party.

But no judgment shall be set aside on any such application as aforesaid, unless notice thereof has been served on the opposite party.

Order for setting aside judgment shall be final.

In appealable cases an appeal from order of rejection.

Proviso.

In all cases in which the Court shall pass an order under this section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order or rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from

such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required or petitions.

Of Written Statements.

Written statements may be tendered by the parties at the first hearing of the suit.

Written statements to be on stamp paper.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Particulars of set-off to be given in a written statement.

Abandonment of excess of set-off over claim.

121. If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognisable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

No written statement to be received after first hearing unless called for by the Court.

Court may at any time call for a written statement.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before the final judgment, to call for a written statement, or an additional written statement, from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

How written statements are to be framed.

Written statements to be subscribed and verified.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and

no written statement shall be received unless it be so subscribed and verified.

Court may reject a written statement which is argumentative, prolix, or irrelevant.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court is argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Of the Examination of the Parties.

Oral examination of party, &c.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the Pleader of any party who appears by a Pleader, or if the Pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the Pleader be the person examined) be upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oath.

Substance of the examination to be written.

Consequence of refusal of a party to answer.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party

whom he represents ought to answer, and is likely to be able to answer, if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Of the Production of Documents.

Documentary evidence to be produced at first hearing.

128. If the parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court.

Rejection of exhibits.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevent or otherwise inadmissible, recording the grounds of such rejection.

Documents insufficiently stamped may be received on payment of deficient duty and penalty.

130. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under any Regulation or Act for the time being in force, and it shall appear to the Court that the deed, instrument, or writing, although written on stamp paper, does not bear a sufficient stamp, the Court shall nevertheless receive the same in evidence, saving all just exceptions on other grounds, if the party producing it or requiring its production shall pay into Court the deficiency of the stamp duty and a penalty equal to ten times the amount of the deficiency. Provided that, if it shall appear to the Court that there are reasonable grounds for believing that the deed, instru-

Proviso.

ment, or writing was not properly stamped with the intention of evading the stamp laws, the Court may reject the same. [Repealed and new substituted by Act XXXVI., 1860, s. 13, c. 4. Corresponding provisions in Act X., 1860, s. 17, c. 1.]

Account of moneys so received to be kept.

131. An entry of the fact of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of such deed, instrument, or writing under the signature of the Judge of the Court. The Court shall at the end of every month make a return to the Collector of Revenue of the District of the moneys (if any) which it has so received by way of duty or penalty, distinguishing between such moneys, and stating the number and title of the suit, and the name of the party from whom such moneys were received, and the date (if any) and description of the document, for the purpose of identifying the same: and the Court shall pay over the said moneys to the Collector of Revenue, or to such persons as he may appoint to receive the same; and the Collector of Revenue or other proper authority shall, upon production of the deed, instrument, or writing, with the endorsement hereinbefore mentioned, cause such additional stamp as may be necessary to be affixed to such deed, instrument, or writing in respect of the sums so paid as aforesaid. [Repealed and new substituted by Act XXXVI., 1860, s. 13, c. 4. Corresponding provisions in Act X., 1860, s. 17, c. 1.]

Monthly return to be made to Collector.

Admitted exhibits to be marked and filed.

132. When an exhibit is received by the Court, and admitted in evidence, it shall be endorsed with the number and title of the suit the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Proviso.

No stamp duty in respect of the production or filing of exhibits.

133. No stamp duty shall be leviable in respect of the production or filing of any exhibit, anything contained in any Regulation or Act notwithstanding. [Repealed by Act XXVI., 1867, s. 4.]

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

Rejected exhibits to be marked and returned.

Unless detained by the Court.

135. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

136. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be, shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Exhibit may be returned before the time limited for special reasons.

Certified copy to be kept.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Receipt to be given for returned exhibit.

138. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State, the production of which would be contrary to good policy) and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Court may send for papers from its own records or from other public Offices or Courts.

Except State papers.

Of the Settlement of Issues.

Framing of issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

Court may examine witnesses or documents before framing the issues.

140. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

Amendment of issues. Additional issues.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Of Issues by Agreement of Parties.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be

delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Court, if satisfied that the agreement was executed *bonâ fide*, may decree accordingly.

143. If the Court shall be satisfied, after an examination of the parties or their Pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow, and may be executed in the same way as if the judgment had been pronounced in a contested suit.

When the Suit may be Disposed of at the First Hearing.

If the parties are not at issue on any question of law or fact.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are at issue on questions of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the

Court if satisfied may determine the issues and give judgment.

further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require. Provided that if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

Proviso where summons is for final disposal.

Of Adjournments.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

Court may grant time, or adjourn to a future day.

Proviso.

147. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How Court is to proceed if the parties fail to appear on the day fixed.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Court to proceed if either party fail to produce proofs or witnesses.

Of Summoning Witnesses.

149 The parties or their Pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded if the summons to the defendant, be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

Application for summons.

No stamp duty on application for summons.

150. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding. [Repealed by Act XXVI., 1867, s. 4.]

Expenses of witnesses to be paid before issue of summons.

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court, is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Scale of expenses.

Tender of expenses to witness.

If sum be not sufficient.

Expenses if witness is detained.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes;

Time, place, and purpose of attendance to be specified in summons.

any particular document, which the witness or other person may be called on to produce, shall be described in the summons with convenient certainty.

Summons to produce a document.

153. Any person, whether a party to a suit or not, may be summoned to produce a document without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

SERVICE OF SUMMONS ON A WITNESS.

How and when the summons shall be served.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on the witness, or a male member of his family.

155. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult male member of his family residing with him.

When the summons cannot be served, it is to be returned to the Court.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

Time and manner of service to be endorsed on the summons.

157. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when, and the manner in which it was served.

How a summons on a witness who resides in another jurisdiction is to be served.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served;

and the Court to which the summons is sent shall, upon receipt thereof deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

When a witness absconds, his property may be attached.

159. If the summons for the attendance of any person, either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

How the Court is to proceed with the witness on his appearance.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing, shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in con-

sequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Of the Examination of Parties as Witnesses.

A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application to be made for the examination of a party as a witness.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court shall receive a written declaration in support of the cause shown.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If no sufficient cause be shown, summons to issue.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may of its own accord in any stage of the suit cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court, or may cause such party to be examined in such other manner as the Court may direct.

ATTENDANCE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

Persons summoned to give evidence must attend.

167. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by a witness.

168. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155, shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person absconds or keeps out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to give evidence.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence though not summoned.

171. Any person, present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

When and how Witnesses are to be Examined.

Witnesses to be examined at the hearing of the suit in open Court.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be

In what form evidence shall be taken in appealable cases.

corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer will be taken down and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination. In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substances of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memo-

In what case deposition to be interpreted.

When evidence may be taken in English.

Objection made to questions.

Memorandum of substance of the evidence to be made by Judge as each witness is examined.

In what form evidence shall be taken in cases not appealable.

If Judge be unable to make a memorandum of the evidence, reason of inability to be recorded.

randum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record.

A witness for sufficient cause may be examined immediately.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined and his depositions shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

Witness to be examined upon oath or affirmation, or according to the law for the time being in force.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Of Commissions to examine absent Witnesses and make Local enquiries.

Cases in which Court may issue a Commission to examine witnesses.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commis-

When the witness resides within the Court's jurisdiction.

sion may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness resides beyond the Court's jurisdiction, and not within the Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX. of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is within the local jurisdiction of the Supreme Court.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India, or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a district, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When the witness is not within the jurisdiction of the Sudder Court or the Supreme Court, but within the British territories or the territories of any Native Prince or State in alliance with the British Government.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in

When the witness is beyond the said territories and not within the territories of any Native Prince or State in alliance with the British Government.

which the evidence of the witness is required be pending in that Court, and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

Commission to be returned with the depositions of the witnesses.

179. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission, in which case it shall be returned in terms of such order, and the Commission and the return thereto, and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall at its discretion dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

When depositions may be read in evidence.

Commission for local investigation.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or, if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the

Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry: and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offence in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioners personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

The report and depositions to be taken as evidence in the suit, but the Commissioner may be examined in person.

181. I[illegible]it or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as beforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report

A Commission[illegible] be appointed to inv[illegible]gate and adjust accounts.

his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

In cases of local investigation or investigation into accounts, expenses of Commission to be paid into Court before issue thereof.

182. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

Of Judgment and Decree.

When judgment is to be pronounced.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court either immediately or on some future day, of which due notice shall be given to the parties or their pleaders.

Judgment to be written in the vernacular language of the judge.

Proviso.

184. The judgment shall be written in the vernacular language of the judge. Provided that if the vernacular language of the judge be not English and the judge b[illegible]ently conversant with the English [illegible]age to be able to write a clear and intelligible decisio[illegible] that language and prefer to write his judgment in it, the judgment may be written in English. [Suspended by Act XX., 1862, s. 5, as respects the High Court, Calcutta.]

Judgment, what to contain.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into

Judgment to be translated.

the language in ordinary use in the Court, and the translation shall also be signed by the Judge. [Suspended by Act XX., 1862, s. 5, as respects the High Court, Calcutta.]

Court to state its decision on each issue.

Proviso.

186. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit. [Suspended by Act XX., 1862, s. 5, as respects the High Court, Calcutta.]

Judgment to direct by whom costs are to be paid.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

What is included under the denomination of costs.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners either in taking evidence or in local investigations or in investigations into accounts.

Decree.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge, and sealed with the seal of the Court.

Decree for the recovery of a portion of immoveable property.

190. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for the delivery of moveable property.

191. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for damages for breach of contract.

192. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court, with the consent of the plaintiff, may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

193. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest to be paid on the principal sum adjudged from the date of suit to the date of payment at such rate as the Court may think proper. [Repealed by Act XXIII., 1861, s. 1.]

Payment by instalments.

194. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

If set-off be allowed.

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Effect of decree.

When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.

196. When the suit is for land or other property paying rent the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decree-holder with interest thereupon at such rate as the Court may think proper.

197. When the suit is for land and for mesne profits which

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where stamps are required by any law for the time being in force. [The application may be made either orally or by writing on unstamped paper.] Bracketed words repealed by Act XXVI., 1867, s. 4.

CHAPTER IV.

Execution of Decrees.

Decree for immoveable property.

199. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for moveable property, performance of contract, or alternative.

200. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable, and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment, if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

201. If the decree be for money it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of

this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree, neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decree against representatives of deceased persons.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found, and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against sureties.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

What property liable to attachment and sale in execution of a decree.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Govern-

ment securities, bonds, or other securities for money, debts, shares in the capital or joint stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable, or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Payment of moneys under decrees, &c.

206. All moneys payable under a decree shall be paid into the Court, whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Adjustment of decree to be made through the Court.

APPLICATION FOR EXECUTION.

Application for execution, how to be made.

207. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree, either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred from original decree-holder to another person.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained

a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

If the person against whom a decree is made shall die before execution, application may be made against his legal representative or estate.

210. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and, if the Court shall think proper to grant such application, the decree may be executed accordingly.

Decree, how to be executed against legal representative.

211. If the decree be ordered to be executed against the legal representative it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed,

the arrest and imprisonment of the person named, or attachment of his property, or otherwise, as the case may be. [Amended by Act XXIII, 1861, s. 15.]

Further particulars when the application is for an attachment of immoveable property.

213. When the application is for an attachment, of any land or other immoveable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of moveable property may be general, or may be accompanied with an inventory of the property to be attached.

214. Where the application is for an attachment of the defendant's moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's moveable property, wheresoever the same can be found, to the amount of the judgment and costs.

Procedure on receiving the application.

215. The Court, on receiving any application for execution of a decree, containing the particulars above mentioned or such of them as may be applicable to the case, shall cause the same to be compared with the original decree contained in the record of the suit, and if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made in the Register of the suit. If the particulars shall not be found to correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application. [Repealed by Act XXIII., 1861, s. 1.]

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In certain special cases notice to show cause why the decree should not be executed shall be issued.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Proviso.

Procedure after issue of notice.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decrees should not be forthwith executed, the Court shall order it to be executed accordingly if the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

218. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary, and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Before granting order, Court may make certain enquiries as to the property to be attached.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

Rules applicable to the summoning and examination of parties and witnesses after judgment.

Issue of the Warrant.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Warrant when to issue.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper Officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper Officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

Of the Execution of Decrees for Immoveable Property.

223. If the decree be for a house, land, or other immoveable

How immoveable property is to be delivered when in the occupancy of a defendant or of some person under him.

property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint, to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

How it is to be delivered when in the occupancy of ryot.

224. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of share how to be made.

225. If the decree be for the division of an estate, or for the separate possession of a share of an undivided estate, paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under the orders of the Court, according to the rules in force for the partition of an estate paying revenue to Government.

Obstruction to execution of decree for immoveable property.

226. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made, may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Obstruction by defendant.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation, on the ground that the land or other immoveable pro-

perty is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint, and pass such order as may be proper under the circumstances of the case.

How defendant may be dealt with, if he persists in obstructing the complainant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

Obstruction by a *bonâ fide* claimant other than the defendant.

229. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account, or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases if person dispossessed of immoveable property dispute the right of decree-holder to be put into possession of such property.

230. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree, and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was

bonâ fide in his possession on his own account, or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

231. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same parties claiming under them in respect of the same cause of action.

Of the Execution of Decrees for Money by Attachment of Property.

Attachment of property in execution of decree for money, to be as follows.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of moveable property in possession of defendant by seizure.

233. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other Officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by prohibitory order of moveable property, to which defendant is entitled subject to a lien.

234. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the

attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment of immoveable property by prohibitory order.

235. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of debts not being negotiable instruments, and of shares in public Companies, &c., by prohibitory order.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment until such further order.

Attachment of money or securities in deposit in a Court of Justice or with a Government Officer, by notice.

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

Attachment of negotiable instruments by seizure.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other Officer shall

bring the same into Court, and such instruments shall be held subject to the further orders of the Court.

When the attachment is by prohibitory order, how the order is to be made known.

239. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and it shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper officer of the Company or Corporation.

Any private alienation of property after attachment to be null and void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift or otherwise, and any payment of the debtor or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment by a debtor who has been prohibited from making payment to his creditor.

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

242. In all cases of attachment under the preceding Sections

The Court may direct money or bank-notes to be paid to the plaintiff, or other attached property to be sold, and proceeds to be paid to him.

it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized, by such sale, or a sufficient part thereof, shall be paid to such party.

When the property attached consists of debts or immoveable property, a manager may be appointed.

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses or other immoveable property, it shall be competent to the Court to appoint a manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts, towards the payment of the amount of the decree and costs; or when the property attached shall consist of land if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper to enable the judgment debtor to raise the amount.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

Manager to render accounts.

In any case in which a manager shall be appointed under this Section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct. [Extended to rent suits by Act XIV., 1863, s. 6.]

When Court may authorize Collectors to stay public sale of land.

244. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property

attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share. [Extended to rent suits by Act XIV., 1863, s. 6.]

On security being given.

245. If the amount decreed with costs and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment, and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of the decree.

Of Claims to Attached Property.

246. In the event of any claim being referred to, or objection offered against the sale of lands or any other immoveable or moveable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots

How claims and objections to the sale of attached property are to be investigated.

or cultivators or other person paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Claims and objections should be preferred at the earliest opportunity.

247. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertised for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Of Sales in Execution of Decrees.

Sales to be by public auction.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the

Exception as to negotiable securities and shares in public companies.

Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market rate of the day. If the property to be sold shall be land paying revenue to Government, and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Sale by Collector of lands paying revenue to Government.

249. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the state when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Notification of sales by public auction.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or

The process for attachment and sale may in certain cases be issued simultaneously.

simultaneously as the Court directing the sale may in each instance think proper.

Mode of payment on sale of moveable property.

251. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property, but any person injured may recover damages by suit.

252. No irregularity in the sale of moveable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immoveable property.

253. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

When full amount of purchase money to be made good.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Procedure on default.

Defaulting purchaser answerable for loss by re-sale.

Notification on re-sale of immoveable property.

255. Every re-sale of immoveable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Confirmation of sale.

256. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court, to set aside the sale on the ground of any material irregularity, in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

The sale if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

257. If no such application as is mentioned in the last preceding section be made, or if such application be made, and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner, if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

When the order to set aside a sale shall be open to appeal.

If the sale be set aside, price to be returned to purchaser.

258. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

Certificate to be granted to the purchasers of land.

259. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a Certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to state the name of actual purchaser.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the pur-

chase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in the possession of defendant.

261. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien.

262. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendants, &c.

263. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of ryots, &c.

264. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant, has been transferred to the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities of which actual seizure has been made.

266. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect:—"A. B., by C. D., Judge of the Court of (*or as the case may be*); in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession, as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Obstruction by claimants other than defendants.

270. Whenever a property is sold in execution of decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Attaching creditor to be first paid out of property attached.

271. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

Proviso where property is sold subject to a mortgage.

272. If it shall appear to the Court, upon the application of a decree-holder that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose if such other decree be a decree of

Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

that Court, or if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Of Arrest in Execution of Decrees for Money.

On what grounds application for discharge may be made.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints. [Amended and supplemented by Act XXIII., 1861, s. 8.]

Form of application.

Verification.

Procedure on application.

274. Upon such application being made, the Court shall examine the applicant in the presence of the plaintiff or his pleader as to his then circumstances, and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant making the necessary deposit for paying the fees of such Officer; or if the defendant furnish good and sufficient security for his appearance at any time when

called upon while such enquiry is being made his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security. [Repealed by Act XXIII., 1861, s. 16.]

Defendant liable to be again arrested if proved guilty of fraudulent concealment of property, &c.

275. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the Execution of Decrees by Imprisonment.

Subsistence-money of a defendant in gaol how fixed and furnished.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time on a decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as

above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Imprisonment not to be longer than 2 years, 6 months if decree for money not exceeding 500 Rs. 3 months if not exceeding 50 Rs.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence-money to be added to amount of decree.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application may be made for discharge on a surrender of the whole of the debtor's property.

281. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold, or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any

Procedure on such application.

Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the Plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree, and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

and he may be further dealt with criminally.

282. A defendant once discharged shall not again be imposed on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred Rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

Though the defendant be discharged, his property is liable for the decree.

283. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, shall be determined by order of the Court executing the decree and not by separate suit; and the order passed by the Court shall be open to appeal. [Repealed by Act XXIII., 1861, s. 1.]

How questions regarding amount of mesne profits and interest, and sums paid in satisfaction of decree, are to be determined.

Of Execution of a Decree out of the Jurisdiction of the Court by which it was Passed.

284. A decree of any Civil Court within any of the British territories in India or established by authority of the Governor General of India in Council in the territories of any Foreign Prince or

How a decree of one Court may be executed within the jurisdiction of another Court.

State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed, to the Court by which the applicant may wish the degree to be executed.

Copy of decree and order for execution to be transmitted.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared; and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any judge, unless it shall, under any peculiar circumstances, to be specified in an order, require such proof.

Decree or order transmitted to be executed as that of the Court.

287. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed, as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Execution, how to be enforced by Court applied to.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the

same according to its own rules in the like cases; provided that such Court shall have no power to enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Court applied to may in certain cases stay execution or order restitution of property or discharge of defendant.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Before staying execution, Court may require security from, or impose conditions upon defendant.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from or impose such conditions upon the defendant as it may deem reasonable.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

292. Any order of the Court in which the decree was passed or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Liability of defendant discharged, to be re-taken.

293. No discharge of a defendant under the provisions of Section 290 shall prevent him from being re-taken in execution of the decree.

What appeal from orders for execution under this Act.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

295. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazaar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazaar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command and delivered, according to the exigency of the warrant, to the Civil Officer charged with the execution thereof.

Rules contained in this Chapter to be applicable to all Civil process.

296. The rules contained in this Chapter shall be applicable to the execution of and judicial process for the sale of property or for the payment of money which may be ordered by a Civil Court in any Civil proceeding.

CHAPTER V.

Of Pauper Suits.

Suits may be brought *in formâ pauperis.*

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

What suits excepted.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

299. The application to the Court for permission to sue in *formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

300. The petition shall contain the particulars required by Section 26 of this Act, in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Petition what to contain.

301. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the customs and manners of the country ought not to be c[illegible] to appear in public, the petition may be presented by [illegible] thorized agent who may be able to answer all material q[illegible] relating to the application, and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party atte[illegible]ded in person.

How to be presented.

Examination of petitioner, if a female, now to be taken.

302. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

Petition to be rejected if not in form.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner, as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

If in form, Court how to proceed.

If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the

Court may reject the application.

allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Notice to opposite party.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

After a summary enquiry, the Court to pass a final order.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party, and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

Court may direct a local enquiry.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Course of proceeding to be observed if application be admitted.

308. If the application of the petitioner be granted and numbered, it shall be registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff be not liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

On the decision of the suit, costs how to be calculated.

309. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been per-

mitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

Refusal to allow to sue as a pauper to bar any subsequent application of the like nature.

310. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeals from orders under this Chapter.

311. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

CHAPTER VI.

[Extended by Act XIV., 1863, s. 14, to suits under Act X., 1859, and Act XIV., 1863.]

REFERENCE TO ARBITRATION.

Reference to arbitration, on application of the parties.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application, how to be made.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be

required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

When the reference is to two or more, the order shall provide for difference of opinion.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

Power of arbitrators.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same process to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to be sworn or testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Extension of time for making award.

318. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information, or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the

arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

In case of death, incapacity, or refusal to act of arbitrators or umpire, Court may appoint others in stead.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this section, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

Award, how to be submitted to Court.

320. When an award in a suit shall be made either by the arbitrator or arbitrators, or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases.

322. The Court may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without

affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

And make order respecting the costs of arbitration.

323. In any of the following cases the Court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say):—

In what cases Court may remit the award or any of the matters referred to arbitration, for re-consideration.

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

324. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Award not to be set aside except on ground of corruption.

Application to set aside the award

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to in the form of a special case; and upon the judgment which shall be so given decree shall follow and be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Judgment to be according to the award.

326. When any person shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any Court having jurisdiction

Agreement of parties to refer to arbitration may be filed in the Court.

in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some are one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order or reference to arbitration shall be made thereon. The several provisions of this Chapter [illegible] so far as they are not inconsistent with [illegible] terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Provisions of this Chapter applicable.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may within six months from the date of the award make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

Enforcement of such award.

CHAPTER VII.

Of Proceedings on Agreement of Parties.

How Questions may be raised for the decision of a Civil Court by any persons interested.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement, which shall be subject to same stamp duty as prescribed for plaints in suits, that upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property, moveable or immoveable, or for the doing or performing, or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

Parties to be subject to the Court's jurisdiction.

330. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

331. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders or taking such evidence as it may deem proper, that the agree-

ment was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try, or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER VIII.

Of Appeals.

Appeal to lie from all decrees except when expressly prohibited.

332. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorised to hear appeals from the decisions of those Courts. [If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court.] Bracketed part repealed by Act IV., 1860, and by Act XXIII., 1861.

Appeals to Sudder Court to be heard by three or more Judges.

How Appeals are to be Preferred.

Appeals to be preferred by a memorandum to be presented to the Appellate Court within specified time.

333. Appeals shall be made in the form of a memorandum, which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

What the memorandum is to contain.

334. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

Form of memorandum.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against:—

Memorandum of Appeal.

(Name, &c., as in Register.) Plaintiff.
(Name, &c., as in Register.) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the Sudder Court at [or Zillah Court at as the case may be], against the decree of in the above suit, dated the day of ; for the following reasons, namely [*here state the reasons*].

If memorandum be not in form or duly presented.

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period, and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree if it proceed on a ground common to all.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

Of Staying and Executing Decrees under Appeal.

Execution of decree not to be stayed by appeal; but if sufficient cause be shown, execution may be stayed.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for exe-

cution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

Court, before making order to stay execution, shall require security for due performance of decree or order of Appellate Court.

339. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court. [Repealed by Act XXIII., 1861, s. 1.]

Court, making an order for execution of a decree against which an appeal has been preferred, may require security for restitution of property, &c.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public Officer.

No such security to be required from Government or any Public Officer.

Of Procedure in Appeals from Decrees.

341. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper Officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule C. hereunto annexed.

How the appeal is to be entered.

Form of the Register.

342. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India and is not possessed of any land or other immoveable property within those territories independent of the property to which the

Appellate Court may, at its discretion, require security for costs from Appellant.

appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

Appellate Court to send intimation to Lower Court of appeal being registered.

Lower Court to transmit papers to Appellate Court.

343. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice and shall be deposited in the Lower Court.

Either party may give notice of exhibits of which he requires to be made and deposited in the Lower Court.

Day for hearing the appeal, how to be fixed.

344. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Publication and service of notice of the day fixed for hearing the appeal.

345. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court, and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex-parte* in his absence. Provided that, if the

Form of notice.

respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Consequence of non-appearance.

346. If on the day fixed for hearing the appeal or any other day subsequent thereto which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex-parte* in his absence.

Re-admission of appeals dismissed for default of prosecution.

347. If an appeal be dismissed for default of prosecution the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Respondent may object to decision of Lower Court in the same manner as if he had preferred a separate appeal.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court which he might have taken if he had preferred a separate appeal from such decision.

The Appellate Court, how to give Judgment.

349. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

No decision to be reversed for irregularity.

350. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reversed or modified, nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

When a case may be remanded by Appellate Court.

351. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such

preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal to the Lower Court, with directions to restore the suit to its original number in the Register and proceed to investigate the merits of the case, and pass a decree therein.

Power to remand limited as above.

352. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

When the evidence is sufficient, the Appellate Court must determine the case though the Lower Court has decided on other grounds.

353. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeding wholly upon some other ground.

Trial of issues by Lower Court on reference from Appellate Court.

354. If the Lower Court shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court, and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues, and shall return to the Appellate Court its finding thereon, together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding, and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

When the Appellate Court may call for fresh evidence.

355. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to

enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not; provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

How additional evidence is to be taken.

356. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court, or to empower any person to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

Points to be defined.

357. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

Powers of Appellate Court.

358. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the suit, examining the parties or their pleaders, and awarding costs, or otherwise as are hereinbefore contained in regard to Courts of original jurisdiction. [Repealed by Act XXIII., 1861, s. 1.]

Judgment of the Appellate Court. In what language it is to be written.

359. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the judge or by the judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court the judgment shall be translated into such language, and the translation shall be signed by the judge or judges. Any judge

Dissent to be recorded.

dissenting from the judgment of the Court

shall state his opinion in writing, which shall form part of the record. [Suspended by Act XX., 1862, s. 5, as respects the High Court, Calcutta.]

What the decree is to contain.

360. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the judge or judges who passed it and shall be sealed with the seal of the Court. If there be a difference of opinion among the judges of the Court it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy of the decree to be transmitted to the Lower Court.

361. A copy of the decree or other order, disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

How to be executed.

362. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

APPEALS FROM ORDERS.

No appeal from order passed before decree, but error or defect therein may be set forth as an objection if the decree be appealed against.

363. No appeal shall lie from any order passed in the course of a suit and relating thereto prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order affecting the merits of the case or the juris-

diction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order passed after decree, and relating to the execution thereof except as provided.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided. [Amended by Act XXIII., 1861, s. 12.]

Appeal from orders as to fines or imprisonment.

365. All orders as to fines or the levying thereof or as to imprisonment under this Act (except when the imprisonment is in execution of a decree shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

Of Appeals in Forma Pauperis.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from such decision subject to all the rules contained in the last preceding Chapter and in Chapter V., so far as they are applicable.

Application to whom and when to be presented.

368 The application to be allowed to appeal *in forma pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

369. The application shall contain the particulars required to be set forth in the memorandum of appeal and shall be drawn up in the like manner. It shall have annexed to it a schedule of any moveable or immoveable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

Procedure.

370. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds above mentioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

Effect of order by Appellate Court.

371. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis* whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

CHAPTER X.

Of Special Appeals.

[This Chapter respecting Special Appeals was amended by Act XLIII., 1860, and on the repeal of the latter, by Act XXIII., 1861.]

Special appeals allowed on what grounds.

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

373. The application for the admission of a special appeal

Application to be presented to the Sudder Court.

shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX. in respect to appeals from decrees in *formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie. [Amended by Act XXIII, 1861, s. 25.]

Application, how to be dealt with.

375. If the application be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. hereunto annexed and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals so far as the same may be applicable. [Repealed by Act XXIII., 1861.]

CHAPTER XI.

Review of Judgment.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal,

from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree.

On discovery of new evidence, &c.

377. The application shall be made within ninety days from the date of the decree unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

Within what time and on what paper the application should be made.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order, in either case, whether for rejecting the application or granting the review shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

The order of the Court for granting or refusing the review is final.

Proviso.

379. If the Court to which the application for review of its judgment has been presented by a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the Judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application for a review being granted.

380. When an application for a review of Judgment is granted, a note thereof shall be made in the Register of Suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

CHAPTER XII.

MISCELLANEOUS.

Sudder Court empowered to make rules of practice, &c., for the subordinate Civil Courts.

381. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the subordinate Civil Courts, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. [Repealed by Act XXIII., 1861, s. 1.]

Provided such rules are not inconsistent with this or any other law.

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Court.

382. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military bazaars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of jurisdiction and procedure of Village Moonsiffs and Village or District Punchayets in Madras—

of Military Courts of Request—

of single officers appointed to try small suits in Madras and Bombay.

And of Military Punchayets in Madras.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII., 1830, of the Bombay Code (*for vesting certain Jagheerdars, Surinjameedars, and Inamdars with the power of deciding suits within the boundaries of their respective estates*), and Act XV. of 1840 (*for extending Regulations XV.*, 1827, *and XIII.*, 1830, *of the Bombay Code, to the Agents of Foreign Sovereigns*), or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI., 1816, of the Bengal Code (*for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack*), or cases of the nature defined in Regulation XXIX., 1827 (*for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh*), Regulation VII., 1830 (*for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country*), Regulations I. and XVI., 1831, of the Bombay Code (*for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned*), Act XIX. of 1835 (*relating to the jurisdiction and authority of the Assistant to the Agent for Sardars in the Dekkan*), and Act XIII. of 1842 (*to enable the holders of revenue which*

Saving of certain special or local Laws.

has been alienated to them by the State to collect that revenue within the Presidency of Bombay), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations until extended thereto.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the "Gazette." [Supplemented by Act XXIII., 1861, s. 39, and by Act IX., 1863, s. 1.]

Interpretation.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District." "District Court."

The local jurisdiction of a principal Civil Court of original jurisdiction shall be deemed a district for the purposes of this Act; and the words "District Court" shall mean such Court.

"Sudder Court."

In any part of the British Territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said Territories. [Supplemented by Act IX., 1863.]

Commencement of operation of Act.

387. This Act shall come into operation in the Presidency of Bengal from the 1st day of July, 1859, and in the Presidencies of Madras and Bombay from the 1st day of January, 1860, or from such earlier day as the

Local Government in those Presidencies respectively shall fix and shall publicly notify in the "Gazette" of the Presidency three months at least before the date so fixed. But if in any suit pending at the time when this Act shall come into operation it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Pending Suits.

388. From and after the time when this Act shall come into operation in any part of the British Territories in India, the procedure of the Civil Courts in such part of the said Territories shall be regulated by this Act, and except as otherwise provided by this Act, by no other Law or Regulation.

Where Act comes into operation, procedure of Civil Courts to be regulated by it only.

This Act was named the "Code of Civil Procedure" by Act XXIII., 1861, s. 42.

SCHEDULE A. referred to in the foregoing scheme of Procedure.

Court of the of holden at

REGISTER OF CIVIL SUITS in the year 18

Date of Presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.			Judgment.			Appeal.		Execution.					Return of Execution.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of Order.	Against whom.	For what, and Amount if Money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and date of every Return.

SCHEDULE B.

In the Court of No. of Suit.

at

Plaintiff

Defendant.

(Name, description, and address.)

Whereas [*here enter the name, description, and address of the Plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]; you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not especially required to appear in person, state—"in person, or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here: "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day;"*] and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C. to the foregoing scheme of Procedure.

COURT at

REGISTER OF APPEALS from DECREES in the year 18

Date of Memorandum.	No. of App. 1.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D. to the foregoing scheme of Procedure.

SUDDER COURT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount of Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

FORFEITED PROPERTY.

ACT No. IX. OF 1859.

[*Received the assent of the G. G. on the 30th April,* 1859.

1, 2. Empowers the Government to appoint Court of Special Commissioners for trial of claims to property seized as forfeited, &c. (2) Court to consist of not less than three Commissioners.

3, 4. Establishment of such Court to be notified to the public, and all other Courts to be thereupon suspended; and (4) all matters cognizable under this Act to be transferred from old Court to Commissioner's.

5. Government to appoint places where Court shall sit.

6, 7, 8. Prescribes the form of the plaint; and (7) its mode of verification; and (8) its mode of presentation.

9, 10. Prescribes procedure before hearing; and (10) on hearing.

11. Prescribes mode of taking the examination of witnesses.

12. Extends to proceedings under this Act the law respecting delivery of the decision.

13. Denies all right of appeal.

14, 15. Directs that decrees of Courts under this Act shall be executed by ordinary Civil Courts, &c.; in which (15) records of former are to be deposited.

16, 17. Conviction of offender to be conclusive as to forfeiture of property; and (17) validity of conviction not to be questioned for apparent want of Jurisdiction to convict.

18. Attachment and seizure of property without conviction to bind the forfeiture of the property, unless supposed offender shall surrender within a year and be acquitted.

19. Limits power of Judge, &c., acting under Acts XIV. and XVI., 1857.

20. Act not to affect the right of parties not charged with offences for which property is forfeitable on conviction.

An Act to provide for the adjudication of claims to property seized as forfeited.

Of limited and temporary operation, and now defunct.

BENGAL.—RENT LAW.

ACT No. X. OF 1859.

[*Received the assent of the G. G. on the 29th April,* 1859.

1. Repeals R 8, 1793 partially; R 17, 1793; R 4, 1794; R 35, 1795; R 45, 1795; R 51, 1795, ss. 9 and 10; R 7, 1790, ss. 1 to 20; R 5, 1800, ss. 1 to 20; R 28, 1803; R 30, 1803, ss. 9 and 10, and otherwise partially; R 2, 1805, s. 4; R 8, 1805, s. 19; R 5, 1812, ss. 5 to 23; R 19, 1817, ss. 15

and 16; R 20, 1817, s. 27; R 8, 1819, ss. 18 and 19; R 2, 1821, s. 4; R 7, 1822, s. 22 and ss. 20 and following partially; R 14, 1824; R 8, 1831; R 9, 1833, ss. 14 and 15 partially; Act I., 1839; Act I., 1845, s. 26 partially; Act X., 1846; Act VIII., 1848.

2, 3, 4, 5. Entitles every renter of land to a pottah containing specified particulars; and (3) at the old rent, if not changed from time of permanent settlement; or (4) if not changed for past 20 years; or (5) at equitable rate if liable to be changed.

6, 7, 8. Declares that ryot has a right of occupancy if he has held for 12 years, except in specified lands; and where (7) a special tenancy exists; in which cases (8) terms to depend on agreement of the parties.

9. Ryot receiving pottah to give counterpart engagement.

10. Prohibits exaction beyond rent reserved and entitles ryot to receipt for rent paid.

11. Abolishes the power of Zemindar to compel the attendance of a ryot, &c., at his cutcherry.

12. Extortion of rent by duress, to be subject to fine, besides common law liability.

13, 14. Rent of specified land of tenants not to be raised without previous notice given; and (14) tenant may contest his liability.

15, 16. Dependant Talookdar with permanent tenure at rent not changed since 1793, not liable to have his rent enhanced; and (16) if rent not changed for 20 years, it is to be presumed the rent of 1793.

17. Defines the grounds on which rent of ryot having right of occupancy may be enhanced.

18. Entitles ryot to an abatement of rent for land lost by diluvion.

19. Entitles ryot to put an end to liability for rent by giving notice in Cheit.

20, 21, 22. Arrear of rent to bear twelve per cent interest; and (21) ryot may be ejected for arrears of rent by process of law; and (22) lease may be cancelled for same cause.

23, 24, 25. Gives the Collector jurisdiction in specified suits and complaints against ryots; and (24) in Suits by Zemindars against sureties and agents; and (25) in Suits for ejectment of cultivators.

26. Entitles Zemindar to have lands measured, when rent is payable according to measurement, &c.

27. Obliges dependant Talookdars to register transfers in the Sheristah of the Zemindar, &c.

28. Repeals partially R. 19, 1793, s. 10; R. 41, 1795, s. 10 partially; R. 31, 1803, s. 6 partially; R. 8, 1805, s. 21 partially; R. 12, 1805, s. 24 partially and substitutes new regulations instead.

29. Applies to Surburakers and Tahseeldars of khas lands all the above rules respecting suits by and against Zemindars.

30. All actions under this Act to be brought within one year of cause of action accruing, except where other limit is fixed.

31. Suits for delivery of pottahs, &c., may be instituted at any time during tenancy.

32, 33. Suits for recovery of rents must be brought within 3 years from the end of the year in arrear: (33) and for recovery of money in hands of agent or for delivery of accounts, &c., during agency or within a year after, except in case of fraud, and then within one year after discovery thereof.

34, 35, 36, 37. Suits under this Act to be commenced in Collectorate by plaint, &c., (35) which shall be presented by plaintiff or a person having a knowledge of its truth; (36) and shall be verified, &c., and (37) plaint to be on stamped paper of specified value, and no stamps to be required on filing documents, &c.

38, 39. Documents relied on as proof to be delivered with plaint; and (39) plaintiff is also entitled to order for production of documents by defendant.

40, 41, 42. Plaint for arrear of rent to contain what; and (41) plaint for ejectment, what; if otherwise drawn (42) it may be returned.

43, 44, 45, 46. Summons to be issued, if plaint be proper; (44) and to fix a day, &c., and (45) to be served how; (46) Nazirs to endorse time and mode of service.

47. Service at a distance to be made, how.

48. Costs of summons must be prepaid.

49, 50, 51. Warrant may be issued for arrest of defendant in what suits and under what circumstances; (50) who on arrest must be brought before Collector, &c., (51) who shall try the case early, &c., and may require security, &c.

52. In case of non-arrest, defendant may be proclaimed, &c.

53. In case of arrest of defendant without reasonable causes, Collector may award compensation up to 100 rupees.

54, 55, 56, 57. Case to be struck off the file, if neither party appear, &c.; or (55) judgment be given by default against plaintiff, if only defendant, appears; or (56) if only plaintiff appears Collector may proceed *ex-parte* and give judgment; and (57) in case of subsequent appearance of defendant, the Collector may open the case on terms.

58—68. No appeal to lie against *ex-parte* judgment or judgment by default; but Collector may open the judgment for cause shewn; and (59) may then proceed to examine the parties, (60) on oath; and (61) any witness; and (62) documents shall be produced; and (63) a decree be made according to the evidence; or (64) under circumstances stated, case may be further adjourned; and (65) a future day be fixed for trial; when (66) the trial shall proceed in the usual manner; subject (67) to all existing rules relating to witnesses, &c.; and (68) on default of appearance of both parties, case to be struck off the file.

69. In suits instituted or defended by Naibs, &c., such persons to be subject to same provisions, &c., as parties.

70. Parties of privileged sex or rank exempted from personal attendance.

71. Suits may be conducted by agents, &c.

72. Time may be given to parties for cause shewn.

73. Collector may cause local enquiry to be made.

74, 75. Defendant may pay into Court, satisfaction for demand; plaintiff

may proceed afterwards at peril of costs; and (75) not to receive interest on amount paid into Court.

76. In suits for delivery of pottah, Collector may fix the term of tenancy, but not beyond 10 years, nor for longer period than the parent term.

77. In case of rival claim by some third person, such person to be made a party.

78. In suits for ejectment of ryot, &c., unexecuted decree to be evidence.

79. Collector to give judgment in open Court in his own vernacular.

80. Under a decree for delivery of a pottah, Collector may execute a pottah, if defendant refuses to do so.

81. Under a decree for delivery of a kaboolent, the decree to be of same effect as a kuboolent if kuboolent is not delivered.

82. Magistrate in case of need to give effect to decree for possession of land.

83. Decrees for cancelment of lease, &c., to be proclaimed by beat of drum, &c.

84. Under decree against defendant in gaol, Collector may order his detention in default of satisfaction.

85. Surety to deliver up judgment debtor, or liable himself to process in execution.

86. Execution may go against either property or person, but not against both at same time.

87. All moveable property liable to execution, but list to be furnished by judgment creditor for purpose of seizure.

88, 89. Warrant of execution to be signed by Collector, and to be in force specified time; after which (89) fresh warrant may be issued, &c.

90, 91, 92. On decrees more than a year old, notice to be given of execution; and (91) execution not to issue against representatives without notice; and (92) no execution to issue on judgments more than three years old, except in specified case.

93. Judgment debtor when taken in execution, to be brought before Collector, who may commit him to prison for period specified according to amount of decree.

94. No person to be taken in execution a second time on same judgment.

95, 96, 97. Diet money to be paid before warrant is issued; and (96) be payable monthly; and (97) to be reckoned as costs.

98, 99. Under execution against moveable property, officer to make a list of property and proclaim it; and (99) sale not to be till 10 days afterwards.

100, 102, 103. If third party claimant to it appears, Collector to examine the claim; and (101) decide it; and (102) award costs on litigation; (103) and no appeal to lie from his decision, but party may try his right by Civil suit.

104. Irregularity in sale not to affect its validity.

105, 106, 107. Under-tenures when transferable by custom, may be sold in execution; and (106) in case of third party claimant appearing, Collector to receive and (107) try his claim.

108. Share of joint undivided estate, &c., not to be sold till execution against moveable property has failed.

109. After failure of execution against moveable property in specified cases, execution may go against immoveable.

110. Process in execution against immoveable property to be the same as by attachment and sale.

111. If sale objected to by some third party claiming the property as his own, the Collector is to stay the sale and examine the claim.

112, 113. The owners of rent to have a lien on the produce of the land for the rent, and may distrain, unless security for payment has been given; but (113) distress not to be available for more than a year's rent.

114, 115, 116. Manager under Court of Wards, &c., may exercise power of distraining, &c.; (115) may distrain standing crops, &c.; (116) having first made a demand of the arrear.

117. Person distraining to make a list of things distrained and deliver it to the owner.

118. Standing crops, &c., may be reaped, &c., by cultivator notwithstanding distress, &c.

119. Distrainer may in case of need call for the aid of the Collector.

120. Distraining bailiff to have written authority.

121, 122, 123, 124. Distress to be withdrawn on tender of arrears; and (122) not sold till expiration of five days, &c., and sale to be by Civil Court Ameen; (123) on written application; copy of which (124) shall be sent to Collector, who shall make proclamation, &c.

125, 126. If suit instituted to contest the distress, the Ameen shall suspend proceedings; and (126) such suit may be instituted before notice of distraint.

127. Owner of property distrained may execute Bond and obtain release of distress.

128. Sale of distress to be proceeded with if not stayed by intermediate proceedings.

129, 130, 131, 132. Sale to be where; and (130) may be postponed if no fair biddings; and (131) Sale to be for ready money; and (132) costs to be paid out of proceeds.

133. Sale Officers not to be purchasers.

134. Sale Ameens are to report irregularities of distress.

135. Sale Ameens to be paid under specified circumstances, though no sale takes place.

136. Proceedings of Sale Ameens to be under revision, &c., of Collectors, &c.

137. Sale to proceed if security be not given to abide the event of contest of legality of the distress.

138. In suit to contest legality of distress, distrainer to prove right to distrain.

139, 140. If property of third person is distrained, he may institute suit against distrainer; and (140) if right to distrain be claimed by some third person adversely to distrainer, such third person to be made a party.

141. After sale of property wrongfully distrained owner may sue for damages.

142, 143, 144. Distraining bailiff liable to action; and (143) person distraining without authority, to be liable criminally as well as to damages; but (144) suit to be brought within three months after cause of action.

145. Illegal resistance of legal distress to be punishable with six months' imprisonment, &c.

146, 147. All processes under this Act to be under seal of Collector, &c.; and (147) all resistance to process to be dealt with under the general law.

148. Collector may hold Court at any place within the limits of his Collectorate.

149. Mokhtiars may practise in Collector's Court without his license, subject to specified consequences for illegal conduct.

150, 151. All powers given to Collectors may by delegation be exercised by his Deputy; and (151) Collectors and Deputies to be subject to Commissioners and Boards of Revenue.

152. Appeal to lie from Deputy to Collector, from Collector to Commissioner; the former to be brought within 15 days, the latter within 30; and neither appealable further.

153, 154. In suits under s. 23, cls. 2, 4, 7, for amount not exceeding Rupees 100, Collector's decision to be final, unless specified right be in question, and then and in all other cases appeal to lie to Sudder; and (154) where Collector's decision final, Collector may himself order re-hearing.

155. Decision of Deputy Collector in no case to be final.

156. Petitions of appeal to be on stamped paper.

157, 158, 159. Collector to fix day for hearing appeal, and may give judgment by default or *ex-parte*, as case may be, and (158) if dismissed for default may be re-admitted on cause shown; and (159) Collector to give judgment as in regular suits.

160. In all cases not otherwise provided for an appeal to lie from the Collector or Deputy to the Zillah judge, unless the amount in dispute exceed Rs. 5,000, in which case appeal to lie to the Sudder.

161. Stamps in appeals to the Zillah judges and Sudder to be according to the general Stamp laws.

162, 163. Suits under this Act to be brought in the Court of the Sub-division where cause arose within its jurisdiction; and (163) Collector not to have jurisdiction out of his district by reason of receiving revenues of an estate out of his local jurisdiction.

164, 165. Deputy Collector having police functions not to exercise powers under this Act; nor (165) Assistants at all unless vested with powers of Deputy Collectors.

166. Nothing in this Act to derogate from the rights vested in landed proprietors under Reg. 8, 1819, in regard to Putnee Talooks.

167. Act to commence from 1st August, 1859.

168. Interprets words, viz., "Civil Gaol," "Nazir," &c.

An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint, it is enacted as follows:

Laws repealed.

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely:—

Regulation XVII., 1793 (*to empower landholders to distrain and sell the personal property of ryots, &c.*)

So much of Regulation IV., 1794 (*to determine disputes regarding the grant of pottahs to ryots, &c.*), as is still in force.

Regulation XXXV., 1795 (*for better enabling individuals to recover arrears of rent or revenue due to them*).

Regulation XLV., 1795 (*to empower landholders in the Province of Benares to distrain, &c.*)

Sections IX. and X., Regulation LI., 1795 (*respecting ryotty pottahs in the Province of Benares*).

Sections I. to XX., Regulation VII., 1799 (*to enable landholders to realize their rents with greater punctuality, &c.*)

Sections I. and XX., Regulation V., 1800 (*to enable landholders in the Province of Benares to realize their rents with greater punctuality, &c.*)

Regulation XXVIII., 1803 (*to empower landholders in the Ceded Provinces to distrain, &c.*)

Sections IX. and X., Regulation XXX., 1803 (*prescribing rules for the grant in the Ceded Provinces of pottahs to ryots, &c.*)

Section IV., Regulation II., 1805 (*to provide a limitation of time for certain suits, &c.*)

Section XIX., Regulation VIII., 1805 (*for extending certain Regulations to the Ceded and Conquered Provinces, &c.*)

Sections V. to XXIII., Regulation V., 1812 (*for amending some of the rules at present in force for the collection of the Land Revenue*).

Sections XV. and XVI., Regulation XIX., 1817 (*for amending certain Regulations in force relative to process for recovery of arrears of rent*).

Section XXVII., Regulation XX., 1817 (*relating to resistance to distraint for arrears of rent, &c.*)

Sections XVIII. and XIX., Regulation VIII., 1819 (*relating to Putnee Talooks and the system established for the collection of rents generally, &c.*)

Section IV., Regulation II., 1821 (*relating to the duties of City and Zillah Judges, &c.*)

Section XXII., and so much of Section XX., and the following Sections of Regulation VII., 1822 (*relating to the settlement of the Land Revenue in the Ceded Provinces and Cuttack*), as apply to suits for rent, to complaints of excessive demand or undue exaction of rent, or of the non-delivery of pottahs or receipts, to suits against agents for money or accounts or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV., 1824 (*for modifying the rules in force for referring to the Collector's summary suits in cases of arrear or exaction of rent*).

Regulation VIII., 1831 (*for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent*).

Act I. of 1839 (*relating to the appointment of persons to sell property distrained for the recovery of arrears of rent*).

Act X. of 1846 (*for regulating the proceedings in certain cases of distraint for arrears of rent*); and

Act VIII. of 1848 (*to modify the provisions of Sections IX., X., XI., and XIII. of Regulation V.*, 1812, *of the Bengal Code*).

Sections XIV. and XV., Regulation IX., 1833 (*for the more speedy decision of certain suits, and for enforcing the production of village accounts*), so far as the same are applicable to the Territories under the Government of the Lieutenant-Governor of Bengal, are also repealed.

Such parts of Regulation VIII., 1793 (*prescribing rules for the*

decennial settlement of the public Revenue in Bengal, Behar, and Orissa,) and Regulation XXX., 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI., Act I., of 1845 (*to amend Act No. XII. of* 1841, *entitled "An Act for amending the Bengal Code in regard to sales of land for arrears of Revenue,"*) as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government Revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

The quantity of land; and, where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce is to be delivered, and the time and manner of delivery.

Ryots holding land at fixed rates to receive pottahs.

III. Ryots who in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement are entitled to receive pottahs at those rates.

If rent of land be not changed for 20 years.

IV. Whenever, in any suit under this Act it shall be proved that the rent at which land is held by a ryot in the said Provinces, has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates, as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the

rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejjote, or seer land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sub-let for a term, or year by year by a ryot having a right of occupancy. The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

Saving of terms of written contracts.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot when it contains any express stipulation contrary thereto.

Pottahs to which ryots not having rights of occupancy are entitled.

VIII. Ryots not having rights of occupancy are entitled to pottahs only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pottah entitled to a counterpart engagement.

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah such as the ryot is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

Exactions in excess of rent or receipt withheld.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted

or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowleded to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Form of receipt.

XI. The power heretofore vested in Zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

Payment of rent to be enforced only under this Act.

XII. If payment of rent whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the persons practising such extortion may be subject by law.

Damages for extorting payment of rent by duress.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous years, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed

Enhancement of rent of ryot holding without, or after expiry, &c., of written engagement.

at his usual place of residence, or if he has no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal Cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal or at some other conspicuous place in the village in which the land is situate. [Amended by Act XIV., 1863, ss. 10, 11, and 12.]

Mode of contesting enhancement of rent.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent talookdar, &c., holding land at fixed rent without change since permanent settlement not liable to enhancement of rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land intermediate between the proprietor of an estate and the ryots, who in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent, which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in Section LI., Regulation VIII., 1793, or in any other law to the contrary notwithstanding.

Rent of talookdar, &c., not changed for twenty years to be *prima facie* evidence of occupancy at that rent since permanent settlement.

XVI. Whenever, in any suit under this Act it shall be proved that the rent at which a talook or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Grounds on which ryot having right of occupancy is liable to enhanced rent.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

That the rate paid by him is below that prevailing in adjacent places.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the value of the land, &c., has increased independently of the ryot.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

That the quantity of land held by the ryot is greater than he has paid rent for.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him. [Additions to made by Act XIV., 1863, s. 3.]

When ryot may claim abatement of rent.

XIX. Any ryot who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorised agent in or before the month of Cheit of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of land. If the person entitled to the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

Relinquishment of land by ryot after notice given.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time or payment at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

What to be deemed an arrear of rent under this Act.

Liability of ryot to be ejected for arrear due.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year or the end of the month of Jeth of the Fusly or Willayutee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Liability of farmer to have his lease cancelled for arrear adjudged due.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled nor the lease-holder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

Cognizance of suits under this Act.

XXIII. 1. All suits for the delivery of pottahs or kubooliyets or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered.

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress. [Amended by Act XIV., 1863, s. 4.]

3. All complaints of excessive demand of rent, and all claims to abatement of rent.

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like.

5. All suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment or a lease may be liable to be cancelled.

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same.

7. All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections CXII. and CXIV. of this Act, or out of any acts done under color of the exercise of the said power as hereinafter particularly provided, shall be cognizable by the Collectors of land revenue and shall be instituted and tried under the provisions of this Act, and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other Officer or in any other manner. [Addition to made by Act XIV., 1863, s. 1.]

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by Zemindars and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act. [Addition to made by Act XIV., 1863, s. 1.]

Ejectment of cultivators, farmer, &c., by Zemindars.

XXV. If any Zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorised by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act.

Proviso.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Measurement of lands.

XXVI. When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him, or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired or become cancelled by the sale for arrears of revenue or rent of the state or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot. And every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure unless restrained from doing so by express engagement with the occupants of the lands. If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend it shall not be competent to him to contest the correctness of the measurement made in his absence. [Repealed, see Note at end of Act.]

Registry of transfers of talooks, &c.

XXVII. All dependant talookdars and other persons possessing a permanent transferable interest in land intermediate between the Zemindar and the cultivator are required to register, in the Sherishtah of the Zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every Zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and

divisions. If any Zemindar or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the Zemindar or superior tenant to admit to registry and otherwise give effect to such transfer or succession.

Proviso.

Provided that no Zemindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the Zemindar or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

XXVIII. So much of Section X., Regulation XIX., 1793, Section X., Regulation XLI., 1795, Section VI., Regulation XXXI., 1803, Section XXI., Regulation VIII., 1805, and Section XXIV., Regulation XII., 1805, as authorises and requires proprietors and farmers of estates and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against Surburakars or Tahseeldars of estates held khas.

XXIX. All suits which under the provisions of this Act may be brought by or against Zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or

Tahseeldars of estates held under khas management, whether such estates are the property of Government or of individuals. If the Collector or the Surburakar or Tahseeldar of any such estate in the provinces of Bengal, Behar, and Orissa proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV., Regulation VII., 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is to proceeded against by suit in the Civil Court.

Time for commencement of suits generally.

XXX. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action. [Amended by Act LIII., 1860. Amendment defunct.]

Time for commencement of suits for grant of pottahs, &c.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for the commencement of suits for arrears of rent.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, or suit shall be brought within three years after the passing of this Act; or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Proviso.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII., and the enhancemnt not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Fusly or Willayuttee year, on account of which such enhanced rent is claimed.

Time for the commencement of suits against agents for money, papers, or accounts.

XXXIII. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by agent, may be brought at any time during the agency, or within one year

after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire. Provided that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Proviso.

XXXIV. Suits under this Act shall be instituted by presenting to Collector a plaint or statement of claim which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action. [Repealed, as respects N. W. Ps., by Act XIV., 1863, s. 5, and other enactments made.]

Mode of instituting suits. Form of plaint or statement of claim.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorised agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Statement by whom to be presented.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:

Verification of statement.

I, A. B., do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification.

XXXVII. In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court. In all other suits the statement shall be written on paper bearing a stamp of the value of eight annas.

Statement of claim to be written on stamped paper.

No stamp shall be required in respect of the production or filing of any document, or the summoning of any witness, or of any application for the execution of any order or judgment passed in a suit under this Act. [Repealed by Act XXXVI., 1861.]

No stamp duty to be required for filing documents, &c.

XXXVIII. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim, deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field; the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due. [Repealed, see Note at end of Act.]

Form of plaint in suits for arrears of rent.

XLI. If the suit be for the ejectment of ryot, farmer, or tenant, from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement shall describe (as circumstances may require) the extent, situation, and

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.

designation of the same; and if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or, at his discretion, allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

XLIII. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorised on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process; and shall be in the form A. contained in the Schedule to this Act, or to the like effect.

Summons, how to be served.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Endorsement by Nazir if summons has been personally served or not.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Execution of process in another District.

XLVII. If the usual place of abode of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited in Court.

XLVIII. The amount of the cost of serving the summons, or if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court, upon the same day, or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI.), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases to be issued.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident with the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant

for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form B. contained in the Schedule to this Act, or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form C. in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure, which as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

L. If a defendant be arrested under the warrant of arrest he shall be brought with all convenient speed before the Collector and the Collector shall commit him to custody unless he deposit in Court, such sum as may be specified in the notice.

Procedure when defendant is brought before the Collector under warrant.

LI. When a defendant is brought before the Collector under warrant, the Collector shall, with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil Gaol to be there detained until he shall furnish such security or deposit such sum as the Collector shall order. The security bond shall be in the form D. contained in the Schedule to this Act or to the like effect.

Form of security bond.

Procedure if warrant of arrest cannot be served upon the defendant.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in his own office and at the residence

of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Compensation for arrest applied for without reasonable cause.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred Rupees as he may deem reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in gaol during the pendency of the suit.

Consequence of neither party appearing on the day of trial.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial, as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of action.

If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission.

Proviso.

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Collector may proceed *ex-parte*.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex-parte* against the defendant.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVII. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Revival, reversal, and alteration of decrees *ex-parte* or by default.

LVIII. No appeal shall lie from a judgment passed *ex-parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it. [Amended by Act VI., of 1862, of the Bengal Council.]

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason, to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

LX. The examination of the parties or their agents or such

Examination of parties, &c.

other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

Witnesses to be examined.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Documentary evidence to be produced by defendant.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

After examination, Collector may make his decree, if no further evidence is required.

LXIII. If after the examination required by Section LIX. and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

Consequence of inability of agent to answer, &c.

LXIV. If on such examination as aforesaid the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue and to fix a day for hearing further evidence.

LXV. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such

issue and shall fix a convenient day for the examination of witnesses and the trial of the suit, and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial; or Collector, on application of either party, shall issue summons for the attendance of a witness.

LXVI. The parties shall bring forward their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c., of witnesses.

LXVII. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration, and punishment of witnesses, whether parties to the case or not in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Consequence of parties not appearing on the day fixed for the trial of any issue.

LXVIII. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LVI. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits instituted or defended by Naibs, Gomastahs, &c.

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs, or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and anything which by this Act is required or permitted to be done by a party in person, may

be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit, shall be applicable to the service of processes on such persons.

Personal attendance of plaintiff or defendant not required in certain cases.

LXX. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment of authorized agents or mookhtars.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; and no fee for any agent shall be charged as part of the costs of suit in any case under this Act. [Partially repealed by Act XX., 1865.]

Collector may grant time or adjourn hearing.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

LXXIII. The Collector may at any stage of a case cause a local enquiry, and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government, with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in forced relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear

to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may pay money into Court in satisfaction of the demand.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the cost incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed, and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment. [See Note at end of Act.]

If plaintiff elect to proceed, and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.

No interest on deposits.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time.

LXXVI. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper.

Proviso.

Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If in actions for rent a third claimant appear, he is to be made a party to the suit.

LXXVII. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on

behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

Proviso.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interests and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Suits for ejectment or cancelment of lease.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced. [See Note at end of Act.]

Judgment, how to be pronounced.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse

Refusal of person to execute kubooliyet as required by the decree.

to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Mode of executing decree for ejectment or re-instatement of ryot.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Punishment for obstructing execution.

Mode of executing decree for cancelment of a lease or for ejectment or re-statement of a farmer or tenant.

LXXXIII. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, affixing the same in some conspicuous place within or adjacent to the farm or tenure.

In what case a judgment debtor may be detained or imprisoned without issue of process of execution.

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to gaol or appear pursuant to the conditions of any security bond given under Section LI. the Collector may order that he be detained in or committed to the Civil gaol unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

Liability of surety on failure to deliver judgment-debtor into custody.

LXXXV. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the

debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Issue of process of execution.

LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form E. or F. contained in the Schedule to this Act, or to the like effect. [Repealed as respects N. W. Provinces by Act XIV., 1863, s. 5; and see Note at end of Act.]

Application for execution against moveable property.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long warrant shall continue in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of

the judgment or from the date of the last previous application for execution.

Execution not to issue against heir or representative of a deceased party without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

No process of execution to be issued three years after date of judgment.

XCII. No process of execution of any description whatsoever shall be issued, on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against the person.

XCIII. If a warrant issue for taking into execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil Gaol, there to remain for such time as shall be directed by a warrant addressed to the keeper of the gaol, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty rupees, or six calendar months when such amount does not exceed five hundred rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the Civil Gaol, there to remain for such time, not exceeding six calendar months, as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Limit of imprisonment.

If arrest be for non-delivery of accounts.

No person to be imprisoned a second time under same judgment.

XCIV. Any person once discharged from gaol shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at the time of issue of warrant.

XCV. Any person applying for a warrant of arrest under Section XLIX., or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days, at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property to be prepared and proclamation of sale to be published, &c.

XCVIII. In executing a writ of execution against the moveable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held together with a copy of the said list at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his Office.

Custody and sale of moveable property taken in execution.

XCIX. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Until such sale the

property shall be deposited in some fit place, or in the [illegible] custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX. to CXXXIII., so far as the same are applicable, shall be applied to sales under this Section.

Claimant may secure of moveable property seized if a third party claim any interest therein.

C. If before the day fixed for the sale a third party appears before the Collector and claims a right to interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the whole of such property.

Collector to adjudicate such claims.

CI. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant failing to establish his right, liable to pay compensation to judgment creditor.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order of Collector under the two last preceding Sections.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

Proviso.

CIV. No irregularity in publishing or conducting a sale of

[illegible] under an execution shall [illegible] sale, but this rule shall not be [illegible] deprive any person who may sustain [illegible] such irregularity from recovering such damage by action in the Civil Court; provided [illegible] brought within one year from the date of sale.

Sale of transferable under-tenures in execution of decrees for arrears of rent.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in Section CX. of this Act.

If third party claim to be the proprietor and lawful possessor of such under-tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim.

CVI. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C. for the examination of third parties, and if he see sufficient reason for so doing and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided that no transfer of an under-tenure which by the provisions of this Act or any other

Proviso.

law for the time being in force, is required to be registered in the Sherishteh of the Zemindar or superior tenant shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favour of sharers in undivided estates or tenures.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV., may be brought to sale in execution of the decree in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against his immoveable property.

CIX. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Mode of executing process if immoveable property be a house or other building.

CX. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable

property, and the provisions of Sections XCVIII. and XCIX. shall be applicable to the execution of such process. If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

If it be a saleable under-tenure.

If it be an estate or a share of an estate.

CXI. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor and consequently not being liable to be sold in excution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C. for the examination of third parties, and if satisfied that there is sufficient ground for so doing shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Consequence of objection being offered before the sale of any immoveable property.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent, as defined in Section XX. of this Act, is due from any cultivator of land, the zemindar, lakerajdar, farmer, dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also that no share, in a joint estate dependent talook or other tenure, in which a division of lands has not been made amongst the sharers shall exercise the

Produce of the land to be held hypothecated for the rent.

Arrears of rent may be recovered by distraint under the following rules.

Cultivators who have given security to be exempt from distraint.

power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further that in putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a Lumberdar. [Amended by Act XIV., 1863, s. 7.]

No distraint in certain cases.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the land in the preceding year unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of Wards, &c.

CXIV. The power of distraint vested by Section CXII. in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tahseeldars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the Naibs, Gomashtahs, and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power of attorney in that behalf. Provided that if any illegal act is committed by any such Naib, Gomashtah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

Standing crops and crops gathered but not stored liable to distraint.

CXV. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever shall be liable to distraint under this Act.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to the arrear if not paid or tendered.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

List of property to be distrained to be served on owner.

Standing crops, &c., when attached, to be reaped and stored by the cultivator, or if he neglect to do so, by the distrainer.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public Officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Person empowered to distrain may give written authority to their servants to do so.

CXX. When any person, empowered to distrain property under Section CXI. or Section CXII., shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

CXXI. If at any time after property has been distrained and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Application for sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other Officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the Local Government shall appoint for the purpose.

Form of application.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and date of the distress, and the place in which the distrained property is deposited.

Cost of notice upon defaulter to be deposited by distrainer.

Together with the application, the distrainer shall deliver to the Civil Court Ameen or other Officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by Civil Court Ameen, &c., on receipt of Application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other Officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form G. contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to

contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his Office, and if in the North-Western Provinces in the Cutcherry of the Tahseeldars, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other Officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other Officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person whose property has been distrained in the manner hereinbefore provided may institute a suit to contest the demand of the distrainer immediate after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other Officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress to be withdrawn on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested

shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector, the property shall be released from distraint.

On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other Officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazaar, haut, or other place of public resort, if the Civil Court Ameen or other Officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots, as the Officer holding the sale may think advisable, and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed to another day and shall be then completed at whatever price may be offered.

CXXX. If on the property being put up for sale a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorised to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.

Payment of purchase money.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV. to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and if there be any overplus it shall be delivered to the person whose property shall have been sold.

Proceeds of sale.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

Officers holding sales prohibited from purchasing.

CXXXIV. Civil Court Ameens and other Officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other Officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV., or pass such other order as he may think proper.

All irregularities to be reported to the Collector.

Officer not to proceed to sale, if he find that defaulter has not received due notice.

CXXXV. When a Civil Court Ameen or other Officer has proceeded to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other Officer, the charge of one anna in the Rupee on account of expenses shall

Recovery of expenses if Ameen proceeds to place of sale, and no sale takes place.

be leviable, and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always, that in no case shall a larger amount than ten rupees be recoverable under this Section.

Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.

CXXXVI. All proceedings under this Act of the Civil Court Ameens and other Officers as aforesaid shall be subject to the revision and order of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other Officers as may be thought necessary.

Second proclamation of sale.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other Officer authorising the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other Officer, such Ameen or Officer shall publish a second proclamation in the manner prescribed in Section CXXIV. fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest distrainer's demand.

CXXXVIII. In all suits instituted to contest the demand of distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall

make a decree for the amount in favor of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, Collector, besides directing the release of the distrained property, may award such damages in favour of the plaintiff as the circumstances of the case shall seem to require.

Any person whose property has been distrained for arrears of rent, alleged to be due from another, may institute a suit against the distrainer, &c.

CXXXIX. If any person shall claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted the property may be released upon security being given for the value of the same. If the claim is dismissed the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require. Provided always that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Proviso.

Procedure if distrainer's right to distrain be disputed.

CXL. If in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand,

the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by Sections CXXIV. and CXXXIX., and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

CXLII. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII. and CXIV. of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell

or cause to be sold, any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

CXLIV. Provided always that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil gaol for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months. [Supplemented by Act XIV., 1863, s. 16.]

Service of process.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir, or by such other Officer as the Collector may direct, at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that if in any case the Collector is satisfied that a party is unable to pay the cost of any unnecessary process, he may direct such process to be served free of charge.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Resistance of process.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Collector competent to hold a Court in any part of his jurisdiction.

Proviso.

CXLIX. Repealed by Act XX., 1865.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector; and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a District; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction. [See Note at end of Act.]

Powers of Deputy Collectors.

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits, and relating to the trial thereof or orders passed after decree, and

Collectors and Deputy Collectors to be subject to general direction and control of the Commissioners and the Boards of Revenue.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

No appeal from any decree of Collector for money below 100 Rupees unless the decision involve some question of right to enchance rent or some question relating to a title to land.

CLIII. In the suits under Clauses 2, 4 and 7 of Section XXIII. and under Section XXIV. of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred Rupees, the judgment of the Collector shall be final, and not open to the revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX. and CLXI. of this Act.

In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.

CLIV. In suits in which the judgment of the Collector is final, as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of or could not produce at the time of trial.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Appeal from decision of Deputy Collector.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Petition of appeal to be on stamp paper, &c.

CLVII. The Collector shall fix a day for hearing the appeal and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex-parte*.

Procedure in appeal.

CLVIII. If an appeal be dismissed for default of prosecution the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Re-admission of appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

Judgment in appeal.

CLX. In all suits other than those in which when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute

In what suits appeal to lie to Zillah Judge.

To Sudder Court.

exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court. [Repealed.]

Rules regarding presentation and hearing of appeals.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the land is situate.

CLXII. Suits under this Act shall be preferred in the Revenue Officer of the District, or, when a Sub-division of the district has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situated shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or if all the lands be situate in one District the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction. [See Note at end of Act.]

Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.

CLXIII. Except as provided in the last preceding Section no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

CLXIV. No Deputy Collector appointed under Regulation IX. of 1833 of the Bengal Code, shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any Police functions.

Deputy Collector, entrusted with Police functions, not to exercise judicial powers under this Act.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

What powers to be exercised by Assistants to Collectors.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII., 1819.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII., 1819.

CLXVII. This Act shall commence and have effect from and after the 1st day of August, 1859.

Commencement of Act.

CLXVIII. The words "Civil Gaol," as used in this Act shall include the Civil Gaol of the Zillah and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any Officer of a Court authorised to serve or execute its process. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

"Civil Gaol."

"Nazir."

Number.

Gender.

SCHEDULE.

A.

Form of Summons to Defendant.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[*Name, description, and address of Plaintiff.*]

C. D., Defendant.

[*Name, description, and address of Defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement,*) you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

B.

FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

C.

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[*Name, description, and address of Plaintiff.*]

C. D., Defendant.

[*Name, description, and address of Defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are

hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

D.

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I., E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and, in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. [*If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.*]

E.

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas the said C. D. was directed by a decree of this Court, under date the . day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court, to be dealt with according to law.

F.

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of

Whereas C. D. was directed by a decree of this Court, under

date the day of 185 , to pay to A. B. the sum of , and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

G.

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185 .

Sections 26, 40, 74, 79, 86, 150, and 162 are repealed by Act VI., 1862, of the Bengal Council, so far as the same relates to the provinces subject to the Government of Bengal. The said Act is to be read as part of the above Act.

Amended by Act XIV., 1863, which is to be read as part of this Act.

BENGAL.—ZEMINDARY REVENUE SALE LAW.

ACT No. XI. OF 1859.

[*Received the assent of the G. G. on the 4th March,* 1859.

Recites the objects of the Act.

1. Repeals Regulation 10, 1818, and Act 1., 1845.

2. Any kist of one month remaining unpaid on the 1st of the following month, to be considered an arrear of revenue.

3. Board of Revenue to fix dates at which arrears shall be paid up, in default of which estates shall be sold to highest bidder. Board to give notice of days fixed for payment.

4. In Sylhet, Collector may be authorised to proceed first by distress and sale of personal property of defaulters.

5. No estate to be sold for arrears of specified kinds until after notification in the district, &c., of specified particulars.

6. Sale officer, after expiration of last day for payment, to advertise estates in arrear by specified notification in his own office, &c., and sale shall take place accordingly, except as specified.

7. After notification of an estate for sale, proclamation to be made to ryots and renters not to pay their rents to defaulting proprietor.

8. Sale not to be barred or rendered void by alleged cross claim of defaulter against Government, unless claim be admitted, &c.

9. Collector may up to sunset of last day of payment, receive from any person, not being the defaulting proprietor, a deposit of the arrear, for protection of his own interest, &c.

10, 11. Recorded sharer of joint estate may apply for leave to pay his share of the revenue separately; which application the Collector shall publish, &c., and if not objected to by other recorded sharers, application to be granted; and (11) the same application may be made if his share consists of a specific portion of the land of the estate.

12. If the application is objected to on specified grounds by any other recorded sharer, the Collector shall refer the parties to the Civil Court.

13, 14. After separate account of Revenue is opened for shares, only those shares to be put up for sale which are in arrear; but the several shares still to constitute one integral estate; and (14) if the shares put up do not sell for the amount in arrear, the sale is to be stopped, and the whole estate be sold by auction, unless within 10 days the other sharers pay the arrear, and so become the purchasers.

15, 16. Recorded proprietor or co-partner, may deposit Government securities for arrear, and Collector may realise the securities, and such deposit shall exempt the estate from sale; but (16) person making deposit may withdraw it, or revoke the pledge at any time.

17, 18. Exempts specified estates from sale law: *e. g.*, estates under Court of Wards, estates of minors notified to Court of Wards, and estates held under

attachment by Revenue Officer, &c.; and (18) Collector may exempt any estate in arrear from sale at any time before sale has commenced; and Board of Revenue may exempt in like manner.

19, 20. Sales shall ordinarily be made in land Revenue Office at Sudder Station; but (20) if from sickness, occurrence of a holiday, &c., sale cannot be made on day fixed, sale officer may adjourn it, giving specified notice.

21. Estates to be put up in the order in which they stand in the sale register.

22, 23, 24. Purchaser to deposit 25 per cent. on the price in cash or specified securities; and (23) the full amount shall be made good on or before the 30th day from the sale, and in default the deposit shall be forfeited, and if loss occur on re-sale, first purchaser to be liable for it as an arrear of Revenue; such re-sale (24) to be notified, but not until specified time, and re-sale to be under same rules in other respects as first sale.

25, 26. Appeal may be made to the Commissioner against any sale within 15 days, and he may annul the sale for irregularity, &c., ordering compensation in specified cases; and (26) Commissioner may on ground of hardship or injustice suspend his own proceedings on an appeal, and represent the case to the Board of Revenue, who, if they see cause to annul the sale, may represent it to the Local Government, &c.

27, 28, 29, 30. Sales not appealed against within the allowed time, and sales confirmed on appeal, to be final and conclusive, and (28) thereupon the Sale officer shall deliver certificate of title to the purchaser and certify the change of proprietor; and (29) shall order possession to be given; and (30) thenceforward the certified proprietor shall be answerable for the Government revenue.

31. Proceeds of sale to be applied in payment (1) of arrears of revenue, (2) of registered claims against estate, (3) residue to be distributed among recorded proprietors, or (4) held for Creditor proceeding in Civil Court.

32. In case of annulment of sale, deposit to be returned to purchaser, with interest.

33. No sale to be annulled except on ground of its having been made contrary to provisions of this Act, and of substantial injury by reason of the irregularity; nor unless suit be instituted within a year, nor by any person who has received any of the purchase-money; but sufferer may sue for damages.

34. Party obtaining decree of Civil Court for annulment of sale, must apply for execution within six months afterwards, and decree-holder must repay purchase-money within six months after that, or lose benefit of the annulment of the sale.

35. In the event of the annulment of sale, &c., purchase-money to be refunded with interest, &c.

36. No suit to lie against certified purchaser as benami purchaser for another.

37. Auction purchaser to acquire an estate free from all incumbrances and all under-tenures, except four classes specified.

38, 39. Establishes rules for the registration of talookdaree and other similar tenures created since the time of settlement; and (39) there shall be

two sets of registers, a common register and a special register, the former to secure the specified tenures against any purchaser at revenue sale except the Government, the latter against the Government also.

40. Application for registry of tenure must be to Collector, must state the kind of registry desired, and specified particulars respecting the property.

41. If the application is for common registry, the Collector shall serve notice in specified manner on recorded proprietors, and shall register the tenure if no objection be made within 30 days, and if probable ground of objection be shown shall refer the parties to the Civil Court.

42. If application is for special registry, Collector shall, besides giving the said notice to recorded proprietor, make enquiry in regard to the security of the revenue, and if satisfied on that point shall report to the Commissioner, on whose confirmation the tenure shall be specially registered in case no probable ground of objection is made by proprietor, or, in that case, parties are to be referred to Civil Court.

43. Admits to privilege of being registered leases of lands, &c., whereon dwelling houses, &c., have been erected, at option of the lease-holders.

44. Admits to privilege of being specially registered only, the first and second classes of tenures specified in s. 37; and prescribes the form of application for registration; but registration not to be necessary for protection of such tenures.

45. Application for registration of existing tenures must be made within three years after passing of this Act, and of tenures hereafter created within three months after creation of the tenure.

46. Actual expenses of survey, &c., incurred on application for special registry to be borne by applicant and prepaid if so required.

47. No Civil Court shall have power to order the revenue authorities to specially register any tenure.

48. Person deeming himself wronged by registration of tenure may bring suit for cancelment of register.

49. Subordinate revenue authorities to proceed in the registration according to general instructions from revenue authorities; and orders of Commissioner for special register shall be open to revision for the year.

50. Special registration of a tenure shall protect the tenure except against decree in civil suit to avoid it for fraud and as injurious to Government; and to be valid, notwithstanding such decree in hands of *bonâ fide* holder of tenure for conditions specified.

51. Farms for terms of years, &c., of the third excepted class for the special registration of which application has been made, shall be protected against intermediate sale of parent estate, subject to final decision of application.

52. Purchaser of an estate sold for arrears of revenue, in a district not permanently settled, to acquire the estate free from all incumbrances and all under-tenures, &c., created since the time of settlement, save and except leases of lands whereon dwelling houses, &c., have been erected; but purchaser shall not have power to enhance rents merely by reason of the annulment of the under-tenures, &c.

53, 54. Recorded or unrecorded proprietors (except those who have separate shares under butwarrah or under this Act), becoming purchasers at revenue sale, shall acquire an estate only subject to all incumbrances, &c.; (54) purchasers of shares sold under ss. 13 or 14 shall acquire such shares subject to all incumbrances, &c.

55. Purchaser may recover arrears due before the sale by any available process except distraint.

56, 57. Sale Officer may punish contempts committed in open Cutcherry by fine, &c., subject to appeal to Commissioner; and (57) default to make a bid by payment of deposit shall be a contempt.

58. If there be no bid, the Collector may purchase the estate for one rupee for Government, or if bid be less than the arrears the Collector may take the estate for Government.

59. Authorizes the Collector to take fees not exceeding the rates in Schedule B., and such fees to be prepaid.

60. Provisions of R. 7, 1822, and R. 9, 1825, to apply to surveys made under this Act, &c.

61. Interprets word Collector to include Deputy Collector, &c.

62. Act to be confined to Regulation parts of Lower Bengal.

Schedules A. B. Fees.

An Act to improve the law relating to sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

Preamble.

Whereas it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the Province of Cuttack; and whereas it is just that a person having lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured; and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder Jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers; and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents; and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement; and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors

or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale; and to give absolute security to such tenures by special registry, when shown to be held at rent sufficient for the security of the revenue: and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa, it is enacted as follows:

Laws repealed.

I. Regulation X., 1818 (*relating to collection of the public revenue from proprietors and farmers of land in the District of Cuttack, &c.*), is hereby repealed; and from the date of the passing of this law, Act I. of 1845 (*regarding sales of land for arrears of Revenue*), except in so far as it repeals other laws, and except in regard to sales made or advertised, to arrears and other demands realizable, and to suits commenced and acts done, under authority thereof—shall cease to have effect in the Lower Provinces of Bengal.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which by the Regulations and Acts in force are directed to be realized in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made as far as regards each district in the language of that district, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may

be), and Moonsiffs, and at every Thannah station of that district; and dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property liable to distress and sale.

IV. Provided that in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso in the case of certain descriptions of arrear.

V. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment, according to Section III. of this Act, in the office of the Collector or other officer duly authorised to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the Cutcherry of the malgoozar or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose:—

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The Collector or other Officer duly authorised to hold sales under this Act shall as soon as possible after the latest day of payment fixed in the manner prescribed in Section III. of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the Office of the Collector or other Officer as aforesaid. And if the Government revenue of any estate or share of an estate to be sold exceed the sum of five hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the Official Gazette. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder. And no payment or tender of payment, made after sunset of the said latest day of payment shall bar or interfere with sale, either at the time of sale or after its conclusion.

Notice to ryots, &c.

VII. Whenever an estate or share of an estate is notified for sale, as provided by Section VI. of this Act, the Collector or other Officer as aforesaid shall affix a proclamation in the language of the district in his own Office, and as soon thereafter as may be in the Moonsiff's Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the Cutcherry of the malgoozar or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the ryots and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims against Government held by a defaulter not to invalidate a sale.

VIII. No claim to abatement or remission of revenue unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless after application in due time made by the defaulter, or after the written agreement provided for in Section XV. of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it on payment of arrear of revenue due.

Deposits receivable from persons not proprietors.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section III. of this Act receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, on any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest, as the Court may determine, from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove

before such a Court that the deposit was necessary in order to protect any lien he had on the estate, or share, or part thereof; the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own office in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If within six weeks from the date of the publication of these notices no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commenced.

If objection be made, parties to be referred to the Civil Court.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of specific portion of the land of an estate, that the amount of sudder jumma stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the jumma thereof, the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

XIII. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other Officer as aforesaid, in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in Section VI. of this Act. The share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion or the aggregate of the several separate portions of jumma assigned thereto.

Entire estate may be sold under certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding Section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days' purchase the share in arrear by paying to Government the whole arrear due from such share. If such purchase be completed, the Collector or other Officer as aforesaid shall give such certificate and delivery of possession as are provided for in Sections XXVIII. and XXIX. of this Act, to the purchaser

or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in Section VI. of this Act.

Deposit for the protection of an estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate, and authorising the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III. of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities, as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain. And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue. All moneys and securities so deposited shall be exempt from attachment, otherwise than in execution of a decree of a Civil Court.

Withdrawal of the deposit.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding Section, or his representative or assignee, at any time to withdraw the deposit, and to revoke the pledge of the same.

Estates under Court of Wards or attachment.

XVII. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course

of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI., 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same until the minor or minors, or one of them shall have attained the full age of eighteen years. And no estate held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate held under attachment or managed by a Revenue Officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment, or management until after the end of the year in which such arrears accrued.

Estates may be specially exempted from sale.

XVIII. It shall be competent to the Collector, or other Officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue at any time before the sale of an estate or share of an estate shall have commenced to exempt such estate or share from sale, by a special order to the Collector or other Officer as aforesaid to that effect in each case; and no such sale shall be legal if held after the receipt of such order of exemption. Provided, however, and it is hereby enacted, that the Collector or other Officer as aforesaid or the Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other Officer as aforesaid of the order of exemption.

Proviso.

Sales, where to be made.

XIX. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the land revenue office at the Sudder Station of the District: provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such office, whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the Collector or other Officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause to com-

mence the sale on the day of sale fixed as aforesaid; or if, having commenced it, he be unable, from any cause, to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his Cutcherry; and so on, from day to day, until he shall be able to commence upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

XXI. On the day of sale fixed according to Section VI. of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the Collector's Office of the district being put up first, and so on, in regular sequence, and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number except where it may be necessary to do so on default of deposit, as provided in Section XXII. of this Act.

Deposit on account of purchase-money.

XXII. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think necessary, either in cash, Bank of Bengal Notes, or Post Bills, or Government Securities to be valued at the market rate of the day, duly endorsed twenty-five per cent. on the amount of his bid; and in default of such deposit, the estate or share shall forthwith be put up again and sold.

Full payment of purchase-money.

XXIII. The full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth; and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be re-sold, and the defaulting purchaser

shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold. And in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorised for realising an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase-money and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

XXIV. When default is made in the payment of purchase money, a notification of the intended re-sale shall be published for the period and in the manner prescribed in Section VI. of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due, shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding Section shall be applicable to every such re-sale. Provided that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

Appeals.

XXV. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act, if preferred to him on or before the fifteenth day from the date of sale, reckoning as in Section XXIII., or, if preferred, to the Collector or other Officer as aforesaid, for transmission to the Commissioner, on or before the tenth day from the day of sale, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same

time to the purchaser a payment from the proprietor of any moderate compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest, at the highest rate of the current Government Securities, on the amount of deposit or balance of purchase money during the period of its being retained in the Collector's office; and the order of the Commissioner shall in such cases be final.

Annulment of sale in special cases.

XXVI. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any cases of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the Local Government to annul the sale; and the Local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

XXVII. All sales of which the purchase money has been paid up as prescribed in Section XXIII. of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty days. And sales against which an appeal may have been preferred, and dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal, if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Certificate of sales.

XXVIII. Immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A. annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the Moonsiffs and Police Thannahs within whose jurisdictions any part of the estate or share sold shall be situated.

XXIX. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate to the Mal Cutcherry or in some conspicuous place of the estate or share of an estate purchased.

Delivery of possession.

XXX. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of the Government which may fall due after the latest day of payment aforesaid.

Liability of purchaser.

XXXI. The Collector shall apply the purchase-money first to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the District; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in the manner following, to wit: in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. And if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Application of purchase-money.

XXXII. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXVII. of this Act; and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser with interest

Notification of annulment of sale.

thereon at the highest rate of the current public securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of Section XXV. or Section XXVI. of this Act.

Jurisdiction of Civil Courts in suits to annul sales.

XXXIII. No sale for arrears of revenue or other demand, realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXV. of this Act; and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive, as provided in Section XXVII. of this Act; and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money. Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Proviso.

Effects of annulment by decree of Court of sales under this Act.

XXXIV. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favor such decree was passed shall lose all benefit therefrom. And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase-money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of current Government Securities. And if such party shall neglect to pay any amount so recoverable, within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase-money to be refunded.

XXXV. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

No suits on the ground of benamee purchase.

XXXVI. Any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of a purchaser of a permanently-settled estate sold for its own arrears.

XXXVII. The purchaser of an entire estate in the permanently-settled Districts of Bengal, Behar, and Orissa, sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement: and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:—

First.—Istemraree or mokuraree tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly.—Tenures existing at the time of settlement, which have not been held at a fixed rent. Provided always that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—Talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates; and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly.—Leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in

force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise.

Proviso.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any ryot, having a right of occupancy at fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of talookdaree tenures created after settlement and held for terms of years.

XXXVIII. The following rules for the registration of talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates and of farms for terms of years so held, shall be observed.

Common and special registry.

XXXIX. There shall be two sets of registers, one for common registry and one for special registry. Common registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue except the Government. Special registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue including the Government.

Application for registry.

XL. The holder of any talookdaree or other similar tenure, such as is described in Section XXXVIII. of this Act, desirous of registering it, shall apply by petition to the Collector of the District to which the estate belongs. The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

1. The Pergunnah or Pergunnahs in which the tenure is situated.

2. The nature of the tenure.

3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.

4. The area of the land comprised in the tenure, with its boundaries in complete detail.

5. The amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it.

6. The date of the deed constituting the tenure, or the date when the tenure was created.

7. The name of the proprietor who created the tenure.

8. The name of the original holder of the tenure.

9. The name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said Section may apply in like manner for registry of the same. The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

XLI. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorised agent of such proprietor or proprietors, with a copy of the application annexed, to be affixed in his office, and at the Mal Cutcherry of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor, or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application. If within the limited time no objection is made, the Collector shall register the tenure or farm. If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorised agent, and if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court, otherwise he shall grant the application. If the decision of the Civil Court be in

favour of the applicant, the Collector, on a representation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

XLII. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding Section. If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue, to be made; and if he is satisfied that the Government revenue of the present state is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application. Otherwise the application shall be rejected. If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry, the Collector shall examine the person so objecting or his authorised agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court, otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favour of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for in cases in which no objection is made within the limited time.

Registration of leases of certain lands.

XLIII. Leases of lands of the description specified in the fourth exceptional class in Section XXXVII. may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of Talookdaree and other similar tenures.

Registration of old tenures.

XLIV. Tenures of the first and second exceptional classes in Section XXXVII. may be registered, at the option of the holders; and when so registered, shall be entered only in the special register. Application for such registry shall contain the particulars specified in Section XL. so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in Section XLI. If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy

him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register. Otherwise the application for registry shall be rejected. If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorised agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the Civil Court, otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time. Provided always that nothing contained in this section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to.

Proviso.

XLV. Application for registry of existing tenures and farms must be made within three years after the passing of this Act. Application for the registry of tenures created after the passing of this Act must be made within three months from the date of the deed constituting the tenure. [Repealed by Act III., 1862, of the Bengal Council, and time of application for registry enlarged to three years after the passing of that Act, 21st April, 1862; and as to subsequent Deeds, registration must be applied for within three months after date of the Deed.]

Time for application for registry of tenures and farms.

XLVI. The actual expenses of any measurement, survey, or local enquiry made under Sections XLII. and XLIV. of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Expenses of measurement, survey, or local enquiry.

XLVII. No Civil Court shall be competent to order the Revenue Authorities to enter any tenure or farm in the special register. Provided always that the refusal of the Revenue Authorities so

Civil Court not competent to order entry in the special register.

to register any tenure or farm shall not affect the title of the holder, whatever it might be.

Suit for the cancelment of the registry of a tenure or farm.

XLVIII. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Proceedings of Revenue Authorities in the registration of tenures, &c.

XLIX. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue Authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue Authorities to whom they are subordinate, and from the Local Government; and all others passed under the Sections aforesaid shall be open to appeal in usual course. The order of a Commissioner for the special registry of a tenure under the provisions of this Act, shall be open at any time within one year from the date of registry to revision by the Board of Revenue, or the Local Government, on the ground of the Government Revenue not having been sufficiently secured or of the invalidity of the tenure, as the case may be.

Effect of entry in the special register.

L. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue. Provided that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud. But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Protection of Tsloolkdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

LI. Tenures and farms of the third exceptional class described in Section XXXVII. of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in Section XLII., shall, in case of the sale of the parent estate for arrears of revenue, be

protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue Authorities upon such application, be in favor of the claimant.

Rights of a purchaser of an estate not permanently settled, sold for its own arrears.

LII. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it, after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like, settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds, have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulating rent paid, continue in force and effect. Provided that nothing contained in this Section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Rights of a purchaser being a sharer in any estate.

LIII. Excepting shares in estates under butwarrah who may have saved their shares from sale under Sections XXXIII. and XXXIV., Regulation XIX., 1814, and sharers whom the Collector, under Sections X. and XI. of this Act, has opened separate accounts, any

recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself; shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots, which were not possessed by the previous proprietor at the time of the sale of the said estate.

And of a purchaser of estate not sold for its own arrears.

LIV. When a share or shares of an estate may be sold under the provisions of Section XIII., or Section XIV., the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Rights of purchasers of shares of estate.

LV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day.

Recovery of arrears due to defaulters.

LVI. Any Collector or other Officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open cutcherry or office for the time being, by fine, to an extent not exceeding two hundred Rupees, commutable, if not paid, to imprisonment in the Civil gaol for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other Officer as aforesaid, shall carry his sentence into effect. Provided that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decisions shall be final.

Punishment for contempt.

LVII. A default to make good a bid by making the deposit required by Section XXII. of this Act, shall be held to be a contempt.

Default in making deposit to be considered a contempt.

LVIII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector

Government may purchase at a sale.

or other officer as aforesaid may purchase the estate on account of the Government for one rupee, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

Fees and charges demandable by Collector.

LIX. The Collector, on the part of the Government, shall be entitled to demand from applicants under Sections X. and XI., Sections XV. and XVI., and Sections XL., XLIII., and XLIV. of this Act, fees not exceeding the rates specified in Schedule B. to this Act annexed, which Schedule shall be taken as part of this Act; and applications under the said Sections shall not be received unless the said fees are tendered therewith. [Repealed by Act III., 1862, of the Bengal Council, which establishes a new Table of Fees.]

Regulations VII., 1822, and IX., 1825, to be in force in certain estates.

LX. The provisions of Regulation VII., 1822, and Regulation IX., 1825, shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act, and in every estate purchased or taken on account of Government under this Act.

Interpretation.

LXI. In the construction of this Act, the word "Collector" shall include a Deputy Collector, or other Officer exercising by the authority of Government the powers of a Collector or Deputy Collector.

Application and commencement of this Act.

LXII. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general regulations of that Presidency.

SCHEDULE A.

I certify that A. B. has purchased under Act No. XI. of 1859 the mehal (*or share of a mehal*) specified below, standing in the towjee of the district of , and that his purchase took effect on the day of (*being the day after that fixed for last day of payment.*)

(Signed) D. E.,
Collector.

SPECIFICATION.

(If of an entire Mehal.)

Towjee number.
Name of Mehal.
Name of the former proprietor.
Sudder Jumma.

(If of a share of a Mehal.)

Towjee number of the entire Mehal.
Name of the entire Mehal.
Sudder Jumma of the entire Mehal.
Description of the share sold.
Subordinate Towjee number of the share sold.
Name of the former proprietor of the share sold.
Sudder Jumma for which the share sold is separately liable.

SCHEDULE B.

FEES.

For filing application under Section X. or Section XI. for opening a separate account for share of an entire estate—

If the annual jumma of the share do not exceed Rs. 250...25 0 0

If the annual jumma of the share exceed Rs. 250, and do not exceed Rs. 1,000, at the rate of ten per cent. upon the jumma.

If the annual jumma of the share exceed Rs. 1,000, at the rate of ten per cent. upon Rs. 1,000, and two per cent. upon all above that amount.

For filing an application for a deposit of money or Government Securities under Section XV., half per cent. on the amount deposited.

For any interest on Government Securities so deposited, drawn by the Collector, half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under Section XVI., half per cent. of the amount withdrawn.

For filing an application under Sections XLI., XLII., or XLIII., for the registration of under-tenure or farm—

If the annual rent of the under-tenure do not exceed Rs. 500 ... ... 25 0 0

If the annual rent of the under-tenure exceed Rs. 500 and do not exceed Rs. 1,000, at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed Rs. 1,000, at the above rate up to Rs. 1,000, and at one per cent. upon all above that amount.

BENGAL.—PILOTS.

Act No. XII. of 1859.

[*Received the assent of the G. G. on the 4th May*, 1859.

1. Repeals Act XXIV., 1845.

2. If any person in Pilot service or licensed as Pilot is accused of breach of duty, and it appears to Superintendent of Marine, &c., he shall be brought to trial, upon charges, &c., before Court under this Act.

3, 4. The Lieutenant-Governor shall appoint a Judge of the Court; and (4) a person to conduct the proceedings as Prosecutor.

5. Every trial to be before the Judge and a Jury of two Merchants, one Master of Ship, and a Pilot of not less than twenty years' service.

6, 7, 8. The Judge shall keep a list of Merchants and list of Pilots liable to serve; and (7) when about to hold a trial, shall give notice to prosecutor and party for appointing a jury; and (8) at time and place specified shall in their presence read over names from the Jury List, and propose a Master for the Jury; and names read to be the Jury, if not objected to, or, if objected to, grounds to be stated and Judge to decide, &c.

9. Judge to fix a day for trial and to summons Jury; Juryman not attending may be fined 200 Rupees, unless the Judge allows his excuse, and fine may be levied by distress and sale of goods, &c.

10. In case of non-attendance of full Jury, trial may proceed by consent of party and prosecutor, and if consent be not given, Judge may summons another Juryman, or postpone the trial, and re-summons same Jury or new Jurymen, subject to objection as on appointing original Jury.

11. Judge to keep a register of Jurymen who have served and not to summons them again till all in the list shall have served.

12. Jurymen to be sworn or affirmed to give a true verdict according to the evidence.

13. Judge, at instance of prosecutor, or of party, or of his own motion, may summons witness for trial, or if about to depart, &c., for examination before day of trial, giving notice to accused, but such witnesses may also be examined at the trial.

14. Witness neglecting to attend, &c., without sufficient excuse, may be fined not exceeding 500 Rupees, at discretion of Judge.

15. Evidence of witness to be given on oath, affirmation, or otherwise according to practice of Supreme Court.

16. Verdict to be given on each charge, according to opinion of majority of Jurors, or if Jurors are equally divided, according to opinion of Judge.

17. Prescribes what sentence Judge may pass, and empowers G. of B. to establish a scale of offences and punishments.

18. Proceedings to be sent to Government, and no sentence to be carried out till approved, and Government may remit or mitigate punishment.

19. If the Judge deems the conviction wrong or trial insufficient, he may abstain from passing sentence, and certify to the Government.

20. Empowers the Lt.-G. of B. to make rules of practice for the Court.

21. Act not to restrict the power of the Marine Authorities over Pilots in case of breach of duty deemed not sufficient for trial under this Act.

22. Licensed Pilot refusing to submit to trial to lose his License.

23. Act to extend to all persons employed in the Pilot Service however remunerated.

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.

Preamble.

Whereas it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government, at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as Pilots at the said Presidency, it is enacted as follows:

Acts repealed.

I. Act XXIV. of 1845 (*for establishing a Court for the trial of Officers of the Pilot Service accused of breach of duty*), and I. of 1851 (*for the appropriation of fines levied under Act XXIV. of* 1845), are hereby repealed.

How Pilots accused of breach of duty shall be brought to trial.

II. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a Pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such Service, or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

III. The Lieutenant-Governor of Bengal shall appoint a fit person to be judge of the said Court.

Appointment of Judge.

IV. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Appointment of Prosecutor.

V. Every trial under this Act shall be held before the said Judge and a Jury composed of two Merchants of Calcutta, a Master of a Merchant Ship lying in the Port of Calcutta, and a Pilot of not less than twenty years' service.

Trial to be held before the Judge and Jury.

VI. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of Merchants, the other containing the name of Pilots, liable to serve on such Jury. The names in each list shall be arranged in alphabetical order, and place of abode and quality or business of each person named shall be stated.

Lists of Merchants and Pilots liable to serve on the Jury.

VII. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a Jury to serve at such trial.

Notice to prosecutor and accused of time and place for appointing Jury.

VIII. At the time and place mentioned in the notice, the Judge, in the presence of the prosecutor and the person accused, shall read over the names which first occur in each of the said lists of those Merchants and Pilots who he has reason to believe are present in Calcutta and capable of attending as Jurors at the trial; and shall also propose the name of a Master of a Merchant Ship lying in the Port of Calcutta, whom he deems qualified to serve on such Jury. If no objection be made and allowed, the persons so nominated shall be the Jury to serve at the trial. If the prosecutor or the party accused shall object to any of the persons named as Jurors, he shall assign the grounds of his objection and such objection shall forthwith be decided by the Judge. If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the Jury, provided no objection to such person be made and allowed as aforesaid.

Appointment of Jury.

Day of trial to be fixed and summons to issue to Jurors.

IX. When a Jury has been appointed under the last preceding Section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a Jury. If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred Rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge. Such warrant may be transmitted by the Judge to any Magistrate of Police for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

Penalty for non-attendance.

Trial, how to proceed if any of the Jurors do not attend.

X. If for any cause any of the persons summoned to attend as Jurors shall not be in attendance at the time fixed for the commencement of the trial the trial may, with the consent of the prosecutor and the party accused, be held before the Judge and such Jurors as shall be in attendance. If such consent be not given, the place of the absent Juror shall be supplied by some other person, selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid. If the parties or either of them do not consent that the trial shall be held before the Judge and such Jurors as may be in attendance, and the place of the absent Juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same Jury or appoint and summon another Jury in the manner hereinbefore provided.

Register of Jurors who have served.

XI. The Judge shall register in a book the names of all Jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act. A Juror who has served shall not be required again to serve and his name shall be excluded in reading

over the Jury lists until all the persons named in the said lists who are present in Calcutta and capable of attending as Jurors shall have served.

Jurors to be sworn.

XII. Before the commencement of any trial under this Act the persons summoned and attending as Jurors shall be sworn or affirmed by the Judge of the Court to give a true verdict according to the evidence.

Judge may summon witnesses to attend at a certain time and place.

XIII. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Examination of witnesses about to leave Calcutta.

Penalty for witnesses not attending or refusing to give evidence.

XIV. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending, shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred Rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in Section IX. of this Act.

Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

XV. The evidence of every witness examined before the said Court shall be given on oath, affirmation, or otherwise, according to the rules in that behalf for the time being in force for the examination of witnesses in Her Majesty's Supreme Court of Judicature.

XVI. Upon the completion of the trial, the Jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge. The verdict shall be according to the opinion of the majority of Jurors. If the Jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and Jurors with whom he concurs.

Verdict of Jurors.

XVII. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot Service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit. The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a Schedule of offences and punishments (such punishment being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such Schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such Schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said Schedule, and no other. If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

Sentence of Court if the accused be found guilty.

Schedule of offences and punishments to be prepared.

Acquittal.

XVIII. The proceedings of the Court shall be sent by the Judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the said Lieutenant-Governor. The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit.

No sentence to be final till approved by Government.

Government may remit sentence or mitigate punishment.

If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

XIX. If it shall appear to the Judge of the said Court that the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person, or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another Jury, or acquit the accused person, as he shall think fit.

Power of Government to make rules of practice.

XX. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty where a trial is not deemed necessary.

XXI. Nothing contained in this Act shall be held to restrict the Marine Authorities or the Government from passing such order as may be deemed proper upon any charge or breach of duty preferred against any person employed in the said Pilot Service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Withdrawal of license from licensed Pilot.

XXII. If any person licensed to act as a Pilot, when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a Pilot at the said Presidency.

Act applicable to what persons.

XXIII. The provisions of this Act shall extend to all persons employed in the Pilot Service at the said Presidency and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as Pilots at the said Presidency.

PRESIDENCY TOWNS.—MASTERS AND WORKMEN.

ACT No. XIII. OF 1859.

[*Received the assent of the G. G. on the 4th May,* 1859.

1, 2, 3. Entitles employers in Presidency towns to complain to Magistrate against Artificers, &c., for not doing work according to contract, for which they have received an advance; and (2) empowers Magistrate to order performance, and on default, to sentence Artificer to be imprisoned, &c., and (3) on making order for performance may require Artificer to give security to performance, and on default of giving security may commit to prison.

4, 5. Act to extend to all contracts in whatever form for specified work, and (5) may be extended by Government to the Mofussil.

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases.

Preamble.

Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of Artificers, Workmen, and Laborers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment, it is enacted as follows:

If workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.

I. When any Artificer, Workman or Laborer shall have received from any Master or Employer resident or carrying on business in any Presidency Town, or in any Station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, or from any person acting on behalf of such Master or Employer, an advance of money on account of any work which he shall have contracted to perform, or get performed by any other Artificers, Workmen, or Laborers, if such Artificer, Workman, or Laborer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such Master or Employer or any such person as aforesaid, may complain to a Magistrate of Police, and the Magistrate shall thereupon issue

a summons or a warrant, as he shall think proper, for bringing before him such Artificer, Workman, or Laborer, and shall hear and determine the case.

Magistrate may order re-payment of advance or performance of contract.

II. If it shall be proved to the satisfaction of the Magistrate that such Artificer, Workman, or Laborer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such Artificer, Workman, or Laborer, to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform or get performed such work according to the terms of his contract; and

Penalty if workman fail to comply with the order.

if such Artificer, Workman, or Laborer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or, if the order be for the re-payment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner re-paid; provided that no such order for the re-payment of any money shall, while the same remains unsatisfied, deprive the complainant of any Civil remedy by action or otherwise which he might have had but for this Act.

Magistrate may require workman to give security for due performance of order.

III. When the Magistrate shall order any Artificer, Workman, or Labourer to perform or get performed any work according to the terms of his contract, he may also, at the request of the complainant, require such Artificer, Workman, or Labourer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labor for a period not exceeding three months.

To what contracts the Act extends.

IV. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

V. This Act may be extended by the Governor General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

Act may be extended by Government.

Supplemented by Act III., 1863, of the Madras Council.

LIMITATION OF SUITS.

Act No. XIV. of 1859.

[*Received the assent of the G. G. on the 4th May*, 1859.

Recites expediency of amending and consolidating the laws of limitation.

1. Declares that the period of limitation established by this Act shall supersede all other existing periods, viz.: (1) one year in suits to enforce a right of pre-emption; (2) one year in suits for penalties or forfeiture established by Law for damages to person, personal property or reputation, damages for infringement of Copyright or of any exclusive privilege; in suits for wages of servants, artizan or labourers, for tavern bills, board, lodging and in summary suits under specified Madras Regs.; (3) one year in suits to set aside sales under Mofussil civil executions, or sales for arrears of Government revenue or other demand recoverable as such; in suits by Putnedars and other under-tenure holders for rents, or by same parties to set aside sale of putnee talooks or other under-tenure, and in suits to set aside sale under order of Collector or other revenue officer; (4) one year in suits to set aside attachment, lease or transfer of any land by the revenue officers, &c., or to recover money paid under protest for revenue account; (5) in suits to alter or set aside summary decisions and order of Mofussil Courts; (6) three years in suits to contest awards under specified Bengal Regs.; (7) three years in suits by any party bound respecting the possession of property under Act IV., 1840, &c.; (8) three years in suits to recover the hire of animals, &c., or the amount of retail bills and for rents, &c.; (9, 10) three years in suits for money lent, interest and breach of any contract, unless the contract be in writing, or, being in writing, it might have been registered, and was not so for six months; (11) twelve years in cases governed by English law on debts of record or specially or for a legacy; (12) twelve years in suits for recovery of immoveable property not otherwise provided for; and (13) for shares in joint family property, or for maintenance, &c., and (14) by any proprietor for resumption of rent free land; (15) thirty years in suits against depositary, pawnee,

60 mortgages for recovery of property if the property be moveable, and sixty years if immoveable; and (16) six years in all other suits.

2. Suits against trustees for the purpose of following specific property in their hands to be barred by no length of time, but suits for compensation out of estate of trustees to be barred in six years from death of trustee. Against right of co-trustee to contribution time to be six years from date of right to contribution.

3. Where this Act establishes a longer period of limitation than that of the existing Law, the existing Law to remain in force and this Act to be inoperative.

4, 5, 6, 7, 8. Period of limitation to run in suits for debt and legacy from date of written admission; (5) in suits of true owners, &c., against purchasers from trustees, &c., under defeasable title, from date of purchase; (6) in suits in Supreme Court by mortgagee for mortgaged estate from date of last payment of interest, &c., (7) in suits to avoid incumbrances or under tenures in an estate sold for arrears of revenue, &c., or of rent, from date of sale, &c., (8) in suits on mutual accounts current between merchants and traders from date of last item of current year.

9. In case of cause of action concealed by fraud, &c., limitation to run from discovery of fraud against wrong doer, &c.

10. In actions *ex fraude* the limitation to run from discovery of the fraud.

11, 12. In case of parties under legal disability to sue, the period of disability not to be reckoned; (12) such parties being married women, under English Law, minors, idiots, and lunatics.

13. Period of defendant's absence from India, not to be reckoned as part of the period of limitation, unless process could be served on him.

14. Time employed in suits brought erroneously on specified grounds not to be reckoned in the period of limitation.

15. In suits for recovering possession of moveable property after wrongful dispossession, time to run from date of dispossession.

16. Equitable jurisdiction of Supreme Court to refuse relief on grounds of acquiescence not to be affected by this Act.

17. This Act not to extend to any public property on rights or claims of revenue.

18. This Act not to be applied to suits brought within two years from date of its being passed.

19. No proceeding to enforce judgment, &c., of Supreme Courts to be taken after 12 years from accruing of right to some person capable of releasing, &c.; except in case of revivor, &c., and then time to run from date of revivor, &c., and Act not to apply to judgment, &c., till three years after date of being passed.

20, 21, 22, 23. Judgments, &c., of Mofussil Courts not to be enforced by execution, unless revived within three years prior to date of its execution; (21) same as to summary awards of Civil Courts; but (22, 23) not to apply to existing judgments, &c., or summary awards, &c.

24. Act not to take effect in non-regulation provinces till extended thereto by order of Government.

An Act to provide for the Limitation of Suits.

Preamble.

Whereas it is expedient to amend and consolidate the laws relating to the limitation of suits, it is enacted as follows:

Limitation of Suits.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force, unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following that is to say:—

Limitation of 1 year.

Pre-emption suits.

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year, to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Limitation of 1 year.

Suits for damages, summary suits, &c.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or to the reputation; to suits for damages for the infringement of copyright, or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue Authorities under Regulation V., 1822, of the Madras Code—the period of one year from the time the cause of action arose.

Limitation of 1 year.

Suits to set aside sales under decrees or for arrears of Government Revenue, &c.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook, or such

other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed or would otherwise have become final and conclusive if no such suit had been brought.

Limitation of 1 year. Suits to set aside attachments, &c., by Revenue Authorities for arrears of Government Revenue.

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Authorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment, as the case may be.

Limitation of 1 year. Suits to set aside summary decisions, &c.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable—the period of one year from the date of the final decision, award, or order in the case.

Limitation of 3 years. Suits to contest certain awards.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII., 1822, Regulation IX., 1825, and Regulation IX., 1833, of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Limitation of 3 years. Suits to recover property comprised in an order made under Clause 2, Section 1, Act XVI., of 1838, or Act IV., of 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2, Section I., Act XVI., of 1838, or Act IV., of 1840, of any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Limitation of 3 years. Suits for goods sold by retail, &c.

8. To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue Authorities

under Regulation V., 1822, of the Madras Code)—the period of three years from the time the cause of action arose.

Limitation of 3 years. Suits for money lent or interest or for breach of contract where no written contract exists.

9. To suits brought to recover money lent or interest, or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing signed by the party to be bound thereby or by his duly authorized agent.

Limitation of 3 years. Suits for the same where there is a written contract which has not been registered within six months.

10. To suits brought to recover money lent or interest, or for the breach of any contract in cases in which there is a written engagement or contract and in which such engagement or contract could have been registered by virtue of any law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Limitation of 12 years. Suits for specialty debts and legacies.

11. To suits in cases governed by English law upon all debts and obligations of record and specialities; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Limitation of 12 years. Suits for immoveable property.

12. To suits for the recovery of immoveable property or of any interest in immoveable property to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Limitation of 12 years. Suits for shares in joint family property and for maintenance.

13. To suits to enforce the right to share in any property moveable or immoveable on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a

charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or an account of such maintenance, as the case may be.

Limitation of 12 years. Suits to resume or assess Lakheraj or rent-free land.

14. To suits by the proprietor of any land or by any person claiming under him for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the title of the person claiming the right to resume and assess such lands, or of some person under whom he claims first accrued. Provided that in estates permanently settled no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Proviso if the land has been held rent free from the time of the permanent settlement.

Limitation for 30 and 60 years respectively. Suits against depositaries, pawnees, or mortgagees to recover immoveable property.

15. To suits against a depositary, pawnee, or mortgagee of any property moveable or immoveable for the recovery of the same—a period of thirty years if the property be moveable and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage; or if in the meantime an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee, or mortgagee or some person claiming under him, from the date of such acknowledgment in writing.

Limitation of 6 years applicable to all suits not especially provided for.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Suits against trustees and their representatives for breach of trust, &c.

17. No suit against a trustee in his life-time and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts unless the same is instituted within the proper period of limitation

according to the last preceding Section, to be computed from the decease of such trustee; provided that nothing herein contained shall prevent a co-trustee from enforcing against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Proviso.

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Shorter periods of limitation, if prescribed by particular Acts to prevail.

IV. If in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; provided that if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Revival of right to sue by admission in writing.

Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide* and for valuable consideration from a trustee, depositary, pawnee or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15, Section I.

Computation of period of limitation in suits to recover property purchased from depositaries pawnees, or mortgagees.

Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Computation of period of limitation in suits in Supreme Courts by mortgagee to recover immoveable property mortgaged.

VII. In suits to avoid incumbrances or under-tenures in an

Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent which by virtue of such sale becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Computation of period of limitation in suits between merchants for balances of accounts current.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings, such year to be reckoned as the same is reckoned in the accounts.

Computation of period of limitation in case of concealed fraud.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessary thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it or when he first had the means of producing or compelling the production of the concealed document.

Computation of period of limitation in suits where the cause of action is founded on fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Computation of period of limitation in case of legal disability.

XI. If at the time when the right to bring an action first accrues the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within

three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

What persons to be deemed to be under legal disability under preceding Section.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

Computation of period of limitation in case of absence of defendant.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation unless service of a summons to appear and answer in the suit can during the absence of such defendant be made in any mode prescribed by law.

Computation of period of limitation in case of suit prosecuted *bonâ fide*, but in wrong Court.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bonâ fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any, has been pending, shall be excluded from such computation.

Person unlawfully dispossessed of immoveable property may recover possession, notwithstanding any title that may be set up.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him shall in a suit brought to recover possession of such property be entitled to recover possession thereof, notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so

Suit for dispossession to be brought within six months.

Suit to establish title not to be affected.

recovered or any other person instituting a suit to establish his title to such property, and to recover possession thereof within the period limited by this Act. [Modified by Act XXIII., 1861, s. 26.]

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to extend to public property nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending or that shall be instituted within the period of two years from the date of the passing of this Act shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Suits afterwards instituted to be governed by this Act.

Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years.

XIX. No proceeding shall be taken to enforce any judgment decree, or order of any Court established by Royal Charter but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same unless in the meantime such judgment, decree, or order shall have been duly revived or some part of the principal money secured by such judgment, decree, or order or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person by whom the same shall be payable or his agent, to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment or ac-

knowledgment or the latest of such revivors, payments, or acknowledgments, as the case may be, provided that for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act, shall be governed by the law now in force, anything therein contained notwithstanding.

Proviso as to judgment now in force.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order, or to keep the same in force, within three years next preceding the application for such execution.

Time for enforcing execution of judgment, &c., of a Civil Court not established by Royal Charter.

XXI. Nothing in the preceding Section shall apply to any judgment, decree, or order in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, whichever shall first expire.

Preceding Section not to apply to judgments, &c., in force at the passing of this Act.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter, or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award, or to keep the same in force, within one year next preceding the application for such execution.

Time for execution of a summary award of Civil Court or Revenue Authority.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon or within two years next after the passing of this Act, whichever shall first expire.

Preceding Section not to apply to summary awards in force at the passing of this Act.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including [illegible] dency Towns and the Straits' Settlement; but shall not [illegible] in any Non-regulation Province or place until the same shall be extended thereto by

Operation of Act.

public notification by the Governor General in Council or by the Local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-regulation Province or place by the Governor General in Council, or by the Local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Trial of pending suits, &c., in any Non-regulation Province or place to which the Act is extended.

Amended by Act XIV., 1862, an Act of temporary operation, and since defunct.

PATENTS.

Act No. XV. of 1859.

[*Received the assent of the G. G. on the 17th May*, 1859.

Recites Act VI., 1856, and the opinion of Her Majesty's Law Officers that the Legis. C. was not competent to pass it, and its disallowance and subsequent repeal. Also recites the expediency of making a patent law. Enacts:

1, 2, 3, 4. Entitles inventor of any new manufacture to petition the G. G. in C. for leave to file a specification thereof, and gives a form of petition; and (2) authorises the G. G. in C. to grant petition; but (3) he may previously refer the petition to be reported upon; and (4) if within six months after date of order specification be filed, the petitioner, &c., shall be entitled to sale and exclusive privilege, &c., for fourteen years, and for such further term, not exceeding fourteen years more, as G. G. in C. may direct, upon petition within specified time.

5. Order authorising the filing of specification, &c., may be made subject to any conditions and restrictions the G. G. in C. may direct.

6. Specification shall be in writing and signed, and describe and ascertain the nature of the said invention, &c.

7, 8. Petition for leave to file specification shall be left with Secretary to the Gt. of I. in the Home Dt., and be accompanied with declaration in form prescribed, by inventor or agent, as the case may be; and (8) any false statement in declaration shall be equivalent to perjury.

9. No specification to be filed until prepayment of fees, &c.

10. At time of delivering specification, five copies to be left with it for Local Government, &c.

11, 12, 13. Book to be kept in office of Sec. to Government to record the petition and specification and order for same and all orders relating thereto; (12) such book to be open to inspection and copy from given, &c., on payment of fee, and (13) such copy to be *primâ facie* evidence.

14. If from mistake or inadvertence misstatement has been made in petition or specification or something not new or not invented by petitioner is stated, &c., the petitioner may petition G. G. in C. for leave to file an amended specification; petition to state how the error, &c., occurred, and to deny fraudulent intention.

15. No person to be entitled to exclusive privilege if the invention is not useful, or not new, or not by the petitioner, or if the specification has defects specified or contains wilful or fraudulent misstatement.

16. Every exclusive privilege shall cease, if G. G. in C. shall declare it or the mode in which it is exercised is mischievous to the State, &c., or if breach of condition be established in Supreme Court and G. G. in C. annul the privilege.

17. Importer of new invention not entitled to file specification.

18. Foreign inventor may petition.

19. An invention shall be deemed new if it shall not have been publicly used in India or the U. K. or made known by means of publication. But public use or knowledge to be of no effect if made in fraud or breach of confidence, unless acquiesced in; and public use by or for the inventor himself for a year, &c., not to prevent his taking out a patent.

20. Inventor having English patent may petition for Indian patent within 12 months after date of English patent, &c., and invention shall be deemed new if not used or known in India, &c., before date of English patent, &c.

21. Exclusive privilege not to affect any person who used the invention in India prior to 7th July, 1855.

22. Action may be maintained for infringement of patent right; but only in Local Court of district in which cause of action arose or defendant shall reside.

23. Action shall not be defended on ground of defect, &c., of specification or of wilful or fraudulent misstatement in petition, &c., or of invention not being useful or of patentee not being the inventor, unless the defendant was the inventor, &c., or of its not being new, except in case of previous use of the invention by the defendant.

24, 25. Any person may apply by motion to Supreme Court for rule to show that no exclusive privilege has been acquired on any of several specified grounds, viz., that the invention is not useful, that petitioner was not the inventor, that the specification is insufficient or fraudulent or too extensive, or that petition was wilfully false, &c., or that part of invention is insufficiently described, &c.; or (25) that such part is distinct from the rest and of no utility, or that such was not new or not the invention of petitioner, or that the description of such part, &c., is insufficient.

26. Authorises the A. G., by order of the G. G. in C., to apply to Supreme Court for rule for a trial by any issue of any grounds on which the G. G. in C. may annul the patent.

27. Rules under ss. 24, 25, and 26 to be served on proprietors of invention, &c.

28. Supreme Court may direct an issue and try or send the same for trial to another Court in a summary way and may order new trial, &c.

29, 30. Supreme Court on application under ss. 24, 25, to give judgment that exclusive privilege has not been acquired according to its opinion, costs to be at its discretion; or (30) in case it shall think that there was error of specified kind in the petition, &c., may adjudge the privilege to be valid and allow an amendment.

31. Exclusive privilege shall not be defeated for misstatement in petition unless it was fraudulent.

32. Secretary to the Government to cause entry on the registered specification, of order of Supreme Court in specified case.

33. Court within whose jurisdiction patentee resides may compel him to assign the patent right to the actual inventor if himself is not so.

34. In action for infringement of patent plaintiff shall deliver particulars of the breaches and defendant particulars of his grounds for denying the plaintiff's title to exclusive privilege: similar particulars to be delivered in proceedings under ss. 24, 25, 26, and trial to be confined to grounds notified, but particulars may be amended by leave of Court.

35. Book to be kept in office of Sec. to Gov. in which every patentee or his assignee shall cause to be stated some place in India where he may be served with rules under this Act, and service accordingly shall be valid.

36. Act VI., 1856, to be of same force and effect as if valid, in regard to proceedings had under it; and importers to have the benefit of it if availed of within two years after passing of this Act.

37. Petition for leave to file a specification to be on stamp of 100 rupees.

38. Interpretation of words.

An Act for granting exclusive privileges to Inventors.

Preamble.

Whereas Act VI. of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI. of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India

Company having, in pursuance of the power vested in them by law, disallowed Act VI. of 1856, and having signified to the Governor General of India in Council their disallowance thereof, the said Act was repealed by Act IX. of 1857; and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act, should be protected, it is enacted as follows (the sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):

Inventor may petition for leave to file specification.

Form, &c., of petition.

I. The Inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Order to file specification.

II. Upon such petition, the Governor General of India in Council may make an order authorising the petitioner to file a specification of the invention.

Power to refer petition for enquiry and report.

III. Before making such order, the Governor General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the

term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years, from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Extension of term of exclusive privilege.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in Council may think expedient.

Order to file specification may be made subject to conditions.

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed.

Specification to be in writing, and to describe the invention.

VII. Every petition for leave to file a specification, and every specification filed under this Act, shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing, signed by the petitioner in the forms or to the effect mentioned in the Schedule hereunto annexed, and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said Secretary.

Petition and specification to be left with Secretary to Government.

Petition, &c., to be accompanied by declaration.

Date of delivery to be endorsed on petition.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed

False statement in declaration punishable as perjury.

guilty of perjury, and shall be proceeded against, and, upon conviction, punished accordingly.

Specification not to be filed before payment of fees.

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Copies of specification to be delivered and distributed.

X. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which—

One shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by one of the Secretaries to the Government of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

To be open to inspection.

A copy of such specification shall be open at all reasonable times at the office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

Book for the registry of petitions, specifications, &c.

XI. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a referenc shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of Section XIV.

Inspection of registry book.

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee; and the said Secretary shall cause a copy of any entry therein,

certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Certified copy of entry to be given.

XIII. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

Certified copy to be *primâ facie* evidence.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something, which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred, and that it was not fraudulently intended, and shall be accompanied by a declaration in writing, signed by the petitioner, and if he be absent from India by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections X., XI., XII., and XIII., applicable to specifications, shall be applicable to the petitions, orders, and memoranda, or amended specifications referred to in this Section.

In what cases petitioner may apply for leave to file amended specification.

Effect of amended specification.

An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in any of the following cases—

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If invention of no utility, or

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If invention not new, or

If the petitioner is not the inventor thereof, or

If petitioner is not inventor, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed; or

If specification does not describe the invention.

If the original or any subsequent petition relating to the invention, or the original or any amended specification contain a wilful or fraudulent misstatement.

If petition or specification contain wilful or fraudulent misstatement.

XVI. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorised to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Exclusive privilege to cease if Government declare it mischievous, &c., to public.

Or if Government, upon breach of condition proved, declare that it shall cease.

XVII The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Importer of invention, if not the actual inventor, not to be deemed inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

Foreign inventor.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United

An invention not publicly used or known in the United Kingdom or in India before the application for leave to file his specification to be deemed a new invention within this Act.

Kingdom by means of a publication, either printed or written or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence; provided the inventor shall, within six calendar months after commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also that the use of an invention in public by the inventor thereof, or by his servants, or agents, or by any other person by his license in writing, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Knowledge of invention fraudulently acquired.

Proviso.

Public use by inventor.

XX. If an inventor who prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom, or any part thereof, shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such Letters Patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof, and the term during

Inventor having obtained English Letters Patent to petition within 12 months from the passing of this Act or from the date of the Letters Patent.

Invention if not publicly known or used in India at the time of applying for such Letters Patent to be deemed new.

What to be stated in such petition.

Duration of exclusive privilege.

which the same are to continue in force. Provided also that an exclusive privilege obtained under the provisions of this Act by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Saving of rights of persons who used invention before 7th of July, 1855.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July, 1855, used the same in India.

Action for infringement.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said Inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Defect in specification or petition, or want of novelty in invention, &c., no defence to action for infringement.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification contains a wilful or fraudulent misstatement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or has obtained a right from him to use the invention either wholly or in part. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through

The actual use of an invention in India or the United Kingdom before date of petition a defence to such action.

whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom the invention, or that part of it of which the infringement shall be proved, but not otherwise.

Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds.

XXIV. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say :—

Invention of no utility.

That the said invention is of no utility, or

Invention not new.

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

Petitioner not the inventor.

That the petitioner was not the inventor thereof, or

Invention not described in specification.

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention or in what manner the same is to be performed, or

Fraud in petition or specification.

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

Fraudulent misstatement in petition or specification.

That the original or any subsequent petition relating to the invention or the original or any amended specification contains a wilful or fraudulent misstatement, or

Insufficient description of part of invention in specification.

That some part of the invention, or the manner in which that part is to be performed as described in the specification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

Like application as to part of an invention.

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare

that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule) that is to say:—

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

Application by Advocate General on breach of special condition.

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in Council under the power hereinbefore reserved may in the judgment of the said Governor General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council. The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Service of proceedings on all persons interested.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors or to have shares or interests in the

exclusive privilege under the provisions of Section XXXV. of this Act, and it shall not be necessary to serve such notice on any other persons.

Supreme Court may direct issue for trial to other Court.

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in Civil cases, of any question of fact arising upon an application under Sections XXIV., XXV., or XXVI. of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue or direct a new trial if it shall appear necessary.

New trial.

Judgment.

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV. or XXV. of this Act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Costs.

Amendment of specification by Court.

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention

in the petition or specification or amended specification (if any), included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole invention to be valid, and may upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired,

Proviso.

XXXI. An exclusive privilege shall not be defeated upon the ground that the petition contains a misstatement, unless such misstatement was wilful or fraudulent.

Misstatement in the petition, if not fraudulent, not to defeat the privilege.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Entry in registry book of judgment, &c., declaring privilege not to have been acquired.

XXXIII. If upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act and to account for and pay over the profits thereof.

Particulars to be delivered.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action: and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV., XXV., or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always, that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Service of proceedings.

XXXV. A book shall be kept in the Office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee), wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the

entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at, or in charge of, such place; or, if there be no person resident at, or in charge of such place; or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by Post by a registered letter directed to such person at such place; and if any such person shall neglect to make or cause to be made such entry, the service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house or in such other manner as the Court may direct.

Act VI. of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVI. Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer not being the actual inventor shall cease to have effect by virtue of the provisions of Section XVI. of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Stamp on petition.

XXXVII. Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege,

shall be written or printed on stamped paper of the value of one hundred Rupees.

Interpretation.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"Invention."

The word "invention" shall include an improvement.

"Manufacture."

The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

"Printed."

The word "printed" shall include "lithographed."

"Inventor" and "actual inventor."

The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor, as the case may be.

"Assigns."

The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

"India."

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "an Act for the better Government of India."

"Governor General in Council."

The words "Governor General in Council" shall include the "President in Council."

"Secretary to the Government of India."

The words "Secretary to the Government of India" shall include any Under Secretary to the said Government.

"Her Majesty's Courts of Judicature." "Courts of Judicature."

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS.

FORM OF PETITION (*see Section* I.)

TO THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

The petition of (*here insert, name, addition, and place of residence*) for leave to file a specification under Act No. XV. of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention,*) which invention he believes will be of public utility; that he is the inventor thereof (*or, as the case may be, the assignee or the executor or administrator of the inventor:*) and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.,

(Signed)

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION.

(*See Section* VII.)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition;*) that I believe the said invention will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor;*) and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said invention is truly described in my petition for leave to file a specification thereof.

(Signed)

The day of

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION.

(*See Section* VII.)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the nature of the invention,*) which invention I believe will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor;*) and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

(Signed)

The day of

FORM OF DECLARATION BY AGENT WHEN AN INVENTOR IS ABSENT FROM INDIA.

(*See Section* VII.)

I of

do solemnly and sincerely declare that I have been appointed by the said

his Agent for the purpose of

; and I verily believe that the declaration purporting to be the declaration of the said marked ( ) was signed by him, and that the contents thereof are true.

(Signed)

The day of

FORM OF PETITION—(*See Section* XX.)

That your petitioner (*or, as the case may be, that A. B., of whom your petitioner is the assignee or executor or administrator*) has obtained Her Majesty's Letters Patent dated the day of for (*state the title of the invention,*) and that such Letters Patent are to continue in force for years. That

your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.,

(Signed)

The day of

NABOB OF THE CARNATIC.

Act No. XVI. of 1859.

[*Received the assent of the G. G. on the* 18*th June*, 1859.

Recites doubts as to operation of Act XXX., 1858, s. 14.

1. Declares that no debt of the Prince contracted during his infancy shall be deemed within the said Section unless proved to be necessary, &c., or such proof is dispensed with by Government.

2. Empowers the Court to award costs under Act XXX., 1858, s. 22.

3. Declares that the said Act was not intended to exclude an appeal to H. M. in C.

An Act to explain Act XXX. of 1858 (to provide for the administration of the estate and for the payment of the debts of the late Nabob of the Carnatic.)

Repealed by Act XXXVII., 1860.

BOMBAY ISLAND.—ABKAREE REVENUE.

Act No. XVII. of 1859.

[*Received the assent of the G. G. on the* 16*th July*, 1859.

Recites expediency of increasing the taxes on specified licenses and of prohibiting manufacture of spirits except from specified juice.

1. Repeals Bombay R. 10, 1833.

2. Abkaree revenue to be conducted by Collector or under his farmer.

3, 4. Prohibits manufacture except from juice of Brab or Cocoanut tree, and the mixture of other juice; and (4) person contravening this law to be liable to penalty, &c., and to forfeit implement, &c.

5, 6. Prohibits manufacture and trade, except under license; and (6) persons contravening the law, to be liable to penalty, &c., and forfeit implements, &c.

7. Collector, with sanction of Government, may prescribe rules respecting grant of licenses and use of stills, &c.

8. License shall specify the number, &c., of trees to be drawn, place at which manufacture may be carried on, and other specified particulars.

9. Amount of fee on duty to be fixed by Collector.

10. Arrear of fee on duty may be recovered by distress and sale of goods, &c.

11. Any person drawing liquor, &c., contrary to terms of license to be liable to specified penalty.

12. Collecter may cancel licenses for non-payment of fee or other breach of condition.

13. Every fine or penalty may be recovered by summary proceeding before J. P., &c.

14. Fines and confiscations to belong to Government, but a moiety of the fine may be distributed as reward of informers, &c.

15. Interprets the words "Island of Bombay."

An Act to amend the law for the realization of Revenue from Abkaree in the Island of Bombay.

Preamble.

Whereas it is expedient to raise the taxes chargeable in respect of licenses for drawing liquor from Cocoanut, Drab or Date Trees in the Island of Bombay, and to prohibit the manufacture in the Island of Bombay of any spirituous liquor, except from the juice of Cocoanut, Brab, or Date Trees, it is enacted as follows:

Repeal of Regulation.

I. From and after the commencement of this Act, Regulation X., 1833, of the Bombay Code (*prescribing Rules for the realization of revenue from Abkaree in the Island of Bombay*) shall be repealed, except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Collection of Abkaree Revenue.

II. The collection of Revenue from the Abkaree in the Island of Bombay, shall be conducted by the Collector of Bombay, or under a farming management subject to the control of the Collector.

Manufacture of spirituous liquors in Bombay.

III. No spirituous liquor whatever shall be manufactured in any part of the Island of Bombay except from the juice drawn from Cocoanut, Brab, or Date Trees; and in the manufacture of spirituous

liquor from the juice of Cocoanut, Brab or Date Trees, no Moura Dates, Rice or other material whatever shall be used.

Penalty for prohibited manufacture.

IV. Any person who shall manufacture spirituous liquor contrary to any of the provisions of the preceding Section shall, on conviction before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding five hundred Rupees for each offence; and all stills and other implements and all materials whatever used in such illicit manufacture, shall be seized and confiscated.

License for making spirituous liquors.

V. No person shall draw liquor toddy or juice from any Cocoanut, Brab, or Date Tree, or make or distil any spirituous liquors from the juice of such trees, or use, keep, or have in his possession any still or other utensil or apparatus for making or distilling any spirituous liquors in the Island of Bombay, except under the authority of a license from the Collector, to be granted in such form, and for such period, and subject to the payment of such fee or duty as the Governor of Bombay in Council may from time to time appoint.

Penalty for making spirituous liquors without license.

VI. Any person who shall contravene any of the provisions of the preceding Section shall be liable to a penalty not exceeding five hundred Rupees for each offence, and all stills and other implements and other materials used in such illicit manufacture shall be seized and confiscated.

Grant of license.

VII. The Collector, with the sanction of Government, may prescribe such rules relative to the granting of licenses, to the number, size and description of the stills, to the situation where the stills may be kept or worked, and to the inspection and supervision of the distillery or other place where such stills may be kept or worked, as may from time to time be deemed expedient.

Form of license.

VIII. Every license, when granted, shall specify the number and description of Trees to be drawn, the place at which the liquor is to be distilled or manufactured, and where the still or other apparatus is to be kept or used, the length of time for which such license is to be in force, the amount of fee or duty to be levied in respect of each Tree included in the license, and any other conditions or terms

which the Governor of Bombay in Council may from time to time deem it expedient to require.

Fee for license.

IX. The fee or duty aforesaid shall be paid at such period as the Collector may deem expedient, the same being specified in each respective license.

Recovery of arrears.

X. The Collector may recover any arrear of fee or duty due on account of any license granted under this Act, by distress or sale of the goods and chattels of the person from whom the same is due, or by any other process which now is or hereafter may be in force for the recovery of arrears of rent or revenue due from tenants or farmers of land within the Island of Bombay.

Penalty for drawing liquor without license.

XI. Any person who shall draw any liquor, toddy, or juice from a Cocoanut, Brab or Date Tree in the Island of Bombay, not included in such license as aforesaid, or contrary to the terms of the license granted in respect of any such tree, shall be liable to a penalty not exceeding one hundred Rupees for each offence.

Revocation of license.

XII. The Collector may cancel any license granted under this Act if the fee or duty therein specified be not duly paid or in case of the violation of any other condition thereof.

Adjudication and recovery of fines and confiscations.

XIII. Every fine or penalty leviable under this Act shall be recovered by summary proceedings before any Justice of the Peace or Police Magistrate for the Town and Island of Bombay upon information exhibited by or by order of the Collector, and all confiscations under this Act shall be adjudicated such by Magistrate or Justice, and sold under his warrant.

Appropriation of fines and confiscations.

XIV. All fines and confiscations levied under this Act, shall belong to Government, but a moiety of any fine may, at the discretion of the Collector, be paid to the person, or divided among the persons if more than one, through whose means the offence may have been detected, in such proportions as the Collector may think fit.

Interpretation.

XV. The words "Island of Bombay" in this Act shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at Bombay.

WORDS, MAGISTRATE AND JUSTICE OF THE PEACE INTERPRETED.

ACT NO. XVIII. OF 1859.

[*Received the assent of the G. G. on the 25th July*, 1859.

Recites expediency of amending the law relating to offences made punishable on conviction before a Magistrate.

1. If any offence committed in the Mofussil is, by an Act heretofore passed, made punishable by a Magistrate, the same may be punishable by Supreme Court if committed by European British Subject.

2. Same if such offence be committed within the Presidency Towns.

3. Act not to extend to any offence in which jurisdiction is expressly given to J. P. to convict.

4. The word "Magistrate," when declared to include J. P., not to give jurisdiction to punish unless offence was committed within Presidency Town.

An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.

Preamble.

Whereas it is expedient to amend the law relating to offences declared to be punishable on conviction before a Magistrate, it is enacted as follows:

British subjects how punishable for offences by law made punishable in the Mofussil upon conviction by a Magistrate.

I. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by a European British Subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender, if not otherwise punishable, shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Her Majesty's Courts.

II. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by any person within the local limits of the jurisdiction of the Court of Judicature established by Royal Charter, the offender, if not otherwise punishable, shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

Jurisdiction expressly given to Justice of the Peace not to be affected.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Construction of Acts which declare the word "Magistrate" to include a Justice of the Peace.

IV. Whenever in any Act heretofore passed by the Governor General in Council the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence unless the same shall be committed within the local limits of the jurisdiction of any of the Courts of judicature established by Royal Charter.

ARMS AND AMMUNITION.

Act No. XIX. of 1859.

[*Received the assent of the G. G. on the 12th August*, 1859.

Continues Act XXVIII., 1857, until the end of the year 1859.

An Act to continue in force until the end of the year 1859 Act XXVIII. of 1857 (relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same.

Expired.

MADRAS.—THE MOPLAS OF MALABAR.

Act No. XX. of 1859.

[*Received the assent of the G. G. on the 31st August*, 1859.

1. Repeals Acts XXIII., 1854, and V., 1856.

2. Empowers the G. in C. to bring the District of Malabar by proclamation under this Act.

3. Establishes a forfeiture of property against Moplas concerned in murder or attempts to murder, either as principals, accessaries or assistants in any way, and forfeiture extended to Moplas killed in the commission of the offences specified.

4. Forfeiture to extend to immoveable property of offender alienated within 12 months before commission of offence.

5. Empowers Court on sentencing Mopla to death, to direct the body to be burned or buried in the Gaol, &c.

6. G. in C. to have same powers in regard to Moplas charged under this Act as in regard to persons charged with offences against the State.

7. Empowers the Magistrate to detain Mopla in safe custody for the orders of Government, if he is within provisions of last Section.

8. Any Mopla who has been proceeded against under s. 6, and shall have gone into banishment with consent of G. in C. and shall return in breach of his undertaking, shall be liable to imprisonment, &c., for seven years.

9. For offences specified in s. 3, the Magistrate may, with the consent of the G. in C., levy a fine on the umshum, &c., to which the offender belongs or wherein he resided, &c., and such fine shall be distributed in compensation to parties aggrieved by the outrage.

10. In such cases also the umshum may be called upon to deliver up the offenders, and in default shall be liable to such fine as G. in C. may authorise.

11. Fines, &c., may be levied by Magistrate under summary process, and in the same manner as arrears of revenue, and no action shall be against Magistrate.

12. Empowers the G. in C. to withdraw from operation of the Act any district declared subject to it.

13. Act to continue in force till end of year 1869.

An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.

Preamble.

Whereas in the District of Malabar in the Presidency of Fort St. George, murderous outrages have been frequently committed by persons of the class called Moplas, the offenders in such outrages intending therein to sacrifice their own lives; and the general law of the country is not adequate to suppress such outrages, it is enacted as follows:

Acts repealed.

I. Act XXIII. of 1854 (*for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George*) and Act V. of 1856 (*to give effect to Act XXIII. of 1854 from the time of its promulgation in the District of Malabar, and to extend the application thereof in future*) are hereby repealed, except as to acts done and proceedings taken before the issue of a proclamation under the provisions of Section II. of this Act.

As this Act was to continue until the end of the year 1869, which is not yet come, I have suppressed it solely on the ground of its being included in the Bill referred to in the Preface to the First Volume of this Edition. I surmise that the Act may have been rendered inoperative by an Act of the Executive Council under s. 12, for which see the Abstract above.

THE GOVERNOR GENERAL.

ACT NO. XXI. OF 1859.

[*Received the assent of the G. G. on the 3rd Sept.*, 1859.

Recites expediency of G. G. visiting the N. W. Ps. and other parts of India unaccompanied by Member of Council.

1. Empowers the G. G. alone to exercise all the powers which might be exercised by G. G. in C. as he may deem expedient.

2. Legalizes the exercise by the President in Council of all powers vested in the G. G. in C.

3. Act to commence on departure of G. G. from Calcutta.

An Act for providing for the exercise of certain powers by the Governor General during his absence from his Council.

Continued by Act XVIII., 1860, and since expired.

BOMBAY.—CUSTOMS DUTIES ON SALT.

ACT NO. XXII. OF 1859.

[*Received the assent of the G. G. on the 3rd Sept.*, 1859.

1. Repeals Act 1, 1852, s. 20, and Schedule A., as respects the duty on the import of Salt.

2. Extends to the Salt duty under this Act the provision regarding the duty imposed by the said Schedule.

3. Adds to the powers given to the G. in C. by Act III., 1852, s. 1, the power of fixing the rate of duty on Spirits.

4. Act to be construed as part of previous specified Acts on same subject. Schedule.

An Act to amend Act I. of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay).

Preamble.

Whereas it is expedient to amend Act I. of 1852 (*for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay*), it is enacted as follows:

Part of Act I. of 1852 repealed.

I. Section XX. of Act I. of 1852, and so much of Schedule A. annexed to the said Act as prescribes the rate of duty to be charged on Salt imported by Sea into any Port of the Presidency of Bombay, are repealed.

II. All the provisions now in force of the above-mentioned Act which have reference to the Customs Duty now charged and liable on Salt imported by Sea into any Port of the Presidency of Bombay, shall be taken to have reference to the Duty prescribed in the Schedule annexed to this Act.

Duty on Salt imported by Sea.

III. Repealed by Act VI., 1863.

IV. This Act shall be construed as part of the said Act I. of 1852; and any Act subsequent to Act I. of 1852, which refers to that Act shall be construed to refer to that Act as hereby altered. And any Act which refers to Section XX. of Act I. of 1852 shall, as to all matters arising after the passing of this Act, have the same effect as if it referred to Section III. of this Act.

Construction of Act.

SCHEDULE.

Rate of Duty to be charged on Salt imported by Sea into any Port of the Presidency of Bombay from any Port or place not subject to the Government of India, or from Aden, or from any Port or place in the Straits of Malacca—

Salt not covered by a Pass.....	1 Rupee per Indian Md.

MADRAS AND BOMBAY.—LAND CUSTOMS.

ACT NO. XXIII. OF 1859.

[*Received the assent of the G. G. on the 3rd Sept.*, 1859.

Recites expediency of fixing duties of land customs.

1. Repeals Act VI., 1844, s. 6, and Act XXIX., 1857, s. 2, except as to Salt and Opium.

2, 3. Extends to imports and exports into foreign Settlement (2) by sea (3) by land the Schedules A. and B. of Act VII., 1859.

An Act to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively.

I. Section VI. of Act VI. of 1844 (*for revising the duties on imports and exports in the Presidency of Fort Saint George*), and Section II. of Act

Laws repealed.

XXIX. of 1857 (*to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay*) are hereby repealed except so far as they respectively relate to Salt or Opium which shall remain subject to the same rates of duty, or shall be prohibited without a pass, as the case may be, as if this Act had not been passed.

Exception.

Repealed as to rates of Duties, except as to Salt and Opium, by Act XVII., 1865, s. 1, and by Act XXV., 1865.

MADRAS.—POLICE.

Act No. XXIV. of 1859.

[*Received the assent of the G. G. on the 6th Sept.*, 1859.

Recites the expediency of improving the country Police.

1. Explains the words Magistrate, Subordinate, Police, General Police, District, Property, Person, Cattle, &c.

2, 3. Repeals Regulations and Acts by reference to Schedule; (3) saving powers of appointment given to Magistrates by specified regulation.

4. Vests superintendence of the Police in the G. in C.

5. Vests the administration of the Police in an Inspector General of Police.

6. Continues to new Police the existing powers of Police under old law.

7. Directs what powers the Inspector General shall have.

8. The entire establishment of Police to be one Police force formally enrolled, &c.

9. Inspector General to frame orders and regulations for the government of the force, subject to the approval of the G. in C.

10, 11. The appointment of all Police to rest with the Inspector G. under rules to be sanctioned by G. in C.; (11) and person appointed to have certificate.

12. Directs a deduction to be made from pay, to form, together with other specified means, a "Police Superannuation Fund."

13, 14, 15. Empowers the I. G., &c., to strengthen the Police in any district in case of emergency; (14) especially in the neighbourhood of Railway, Canal, or other public works, and to charge the expense on the Railway, Canal, or other Company; (15) the money so raised to be paid into a separate account called the "General Police Fund."

16, 17. Empowers Police Officer, not below the rank of Inspector, to apply to Magistrate for appointment of special Police Officers, and directs who they may be, and (17) what their powers and liabilities.

18. Person appointed a special, and refusing to serve, to be liable to penalty.

19. Police Officer not to resign office without leave.

20. Persons not in, assuming function of, Police, or feigning by specified means to be in Police, to be liable to penalty.

21. Police Officers to be considered as always on duty.

22, 23, 24. Specifies offences for which Police may arrest without warrant; persons (23) so arrested to be taken forthwith to station; and (24) be released on bail in specified cases.

25, 26. Empowers Officers at Station to bind over parties and witnesses, and (26) prescribes the terms of the Bond.

27. Empowers Magistrate to remand the accused.

28. Empowers the Police without warrant to enter and inspect all drinking shops, gaming houses, &c., and specified suspected places.

29. Officer not below specified grade to be Inspector of weights, &c.

30. Police not to receive complaint of petty offences, and may refuse to receive charge of grave offences.

31. Police may apply for warrant in case of certain offences and charges.

32. Summons, warrants and other criminal process to be directed to Police only.

33, 34. Directs how warrants are to be carried into execution; and (34) how summons and other service process are to be served.

35. Empowers Magistrate to issue warrant without summons whenever positively necessary to enforce attendance.

36, 37, 38. Directs what Police shall do on execution of warrant; and (38) prohibits unnecessary restraint.

39, 40, 41. Authorizes Officer holding arrest warrant to break open doors, &c.; and (40) to enter Zenanah after specified precautions and notice; and (41) directs that the arrested is to be forthwith brought before Magistrate.

42. Prohibits Police from extracting disclosures from prisoner, except of his free will.

43. Entitles Police to demand aid if necessary.

44, 45, 46. Provides punishment for offences by the Police; and (45) against the receipt of gratuities; and (46) extortion.

47. Provides punishment for resistance to and other offences against the Police.

48. Provides punishment for specified nuisances in streets, roads, &c., and slaughtering Cattle; and cruelty to animals, and blocking up ways, and keeping stalls on ways; and throwing dirt, &c., into street; and being found drunk and indecently exposing the person; and neglecting to fence in dangerous places.

49. Empowers Superior Police Officers to make regulations for assemblies and processions in the roads, &c.

50. Restrains power of Magistrate under this Act to its ordinary limits, and directs that all police above Privates shall only be tried by European functionary.

51. Jurisdiction under other Law retained for prosecution of offences against this Act.

52. Fines may be recovered by distress and sale.

53, 54. Proceedings against the Police for acts done under this Act to be brought within three months, and notice to be previously given; and (54) Defendant may plead Magistrate's warrant, &c.

55. Act to be brought into operation by notification in Gazette.

Schedule of repealed Regulations and Acts.

An Act for the better regulation of the Police within the Territories subject to the Presidency of Fort St. George.

Preamble.

Whereas it is expedient to make the Police Force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police Force and improve the condition of the Village Police, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction (that is to say):—

"Magistrate."

The word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate.

"Subordinate."

The word "Subordinate," as applied to Police functionaries, shall mean district Superintendents and their Assistants.

"Police."

The word "Police" shall include General and Village Police Cuttobadies, Kavilgars, and all other persons by whatever name known who exercises any Police functions throughout the Madras Presidency.

"General Police District."

The expression "General Police District" shall embrace all Districts to which the operation of this Act shall be extended.

"Property."

The word "Property" shall include any chattel, money, or valuable security.

Number.

The words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

The word "person" shall include company or corporation.

"Person."

The word "month" shall mean calendar month.

"Month."

The word "cattle" shall, besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Sheep, Goats and Swine.

"Cattle."

II. The several Regulations and Acts mentioned in the Schedule hereunto annexed are hereby repealed and amended to the extent and in the manner therein set forth within the limits of the General Police District, except so far as they repeal the whole or any part of any other Regulation or Act; and except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation, provided also that nothing in this Section shall be construed to affect any judicial function, or jurisdiction original or appellate, which by any existing law may be exercised by any of the Officers mentioned in the enactments above repealed.

Laws repealed.

III. Nothing contained in this Act shall affect the powers of appointment given to Magistrates by Section XL. of Regulation XI., 1816, of the Madras Code, or of the jurisdiction or functions of Officers appointed under such powers, save only that no Officers so appointed shall be competent to exercise any of the functions or duties of the Executive Police Officers.

Jurisdiction of Officers appointed under Regulation XI., 1816.

IV. The superintendence of the Police throughout the General Police District shall vest in, and be exercised by the Governor in Council, and except as authorized by him under the provisions of this Act, no person, Officer, or Court shall be empowered to appoint, supersede, or control any Police functionary, any Regulation, Act or usage to the contrary notwithstanding.

Superintendence vested in Governor in Council.

V. The administration of the Police throughout the General Police District shall be vested in an Officer to be styled the Inspector General of Police for the Presidency of Madras, and in such Subordinates as to the Governor in Council shall seem fit, who shall from time to time

Inspector General of Police, &c.

be appointed by the Governor in Council, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Powers of Police, &c.

VI. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police authorities shall be vested in the Police authorities appointed under this Act. Provided always that no Police functionary so appointed shall possess or exercise any Judicial or Revenue authority.

Inspector General to be appointed a Magistrate.

To act as such under the orders of Government.

District Superintendent may be appointed a Magistrate.

In what cases he may act in that capacity.

VII. The Inspector General of Police shall be appointed a Justice of the Peace; he shall also have the full powers, of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as he may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offender in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution of the Force.

VIII. The entire Police establishment of the Madras Presidency shall, for the purposes of this Act be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of Officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Governor in Council with the sanction of the Governor General of India in Council.

Inspector General to control Force and make rules.

IX. The Inspector General may from time to time, subject to to the approval of the Governor in Council, frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the Force, the places of residence, the

classification, rank, distribution, and particular service of the members thereof; their inspection; the description of arms, accoutrements, and other necessaries, to be furnished to them; to the collecting and communicating intelligence and information, and all such other orders and regulations relative to the said Police Force as the said Inspector General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Inspector General to appoint and dismiss.

X. The appointment of all Police Officers shall, under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector General of Police and the Deputy Superintendents, who may under such rules as aforesaid at any time dismiss, supend, or fine to any amount not exceeding one month's pay, any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Police Officers to receive certificates of Office.

XI. Every person so appointed shall receive on his enrolment a certificate (A.) under the seal of the Inspector General, by virtue of which he shall be vested with the powers, functions, and privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the Police Force, and shall thereupon be immediately surrendered to his superior Officer, or other person empowered to receive it.

Police Superannuation Fund.

XII. There shall be deducted from the pay of every Police Officer of a class not entitled to the benefit of the Uncovenanted Service Pension Rules, a sum after such rate as the Governor in Council shall direct, not being a greater rate than one anna in the rupee; which sum so deducted and also the moneys accruing from stoppage from the pay of Police Officers during absence from sickness or other cause, and fines imposed on Police Officers for misconduct, and from fines imposed by Magistrates and others upon drunken persons, or for assaults upon Police Officers, and all moneys arising from the sale of worn or cast-off clothing, or other articles supplied for the use of the Police, or from any other micellaneous sources which shall be permitted by the Governor in Council, shall from time to time be invested in such manner and in such

securities as the Governor in Council may direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes herein mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a Fund to be called "The Police Superannuation Fund;" and shall be applied from time to time to the payment of superannuation or retiring allowances, or gratuities, under such rules as may be passed by the said Governor in Council: provided always that any Police Officer may be dismissed or removed without superannuation allowance; and that no Police Officer shall be entitled of right to any allowance from this Fund; or shall retain any right to a refund of any deduction made from his pay while he may have been a Police Officer.

Proviso.

XIII. It shall be lawful for the Inspector General of Police, or any District Superintendent, if they shall think fit, on application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police district, at the charge of the person making the application, but subject to the orders of the said Inspector General or District Superintendent, and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General or District Superintendent, to require that the Officers so appointed shall be discontinued: such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Additional Police Officers employed at the cost of individuals.

XIV. Whenever any Railway, Canal, or other Public work shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the appointment of an additional Police Force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector General, with the consent of the Governor in Council, to direct the employment of such additional Force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the Treasurer or other Officer having the control or custody of the

Appointment of additional Force in the neighbourhood of Railway and other works.

Funds of any Company carrying on such works, for the payment of the extra Force so rendered necessary as aforesaid.

Payment of money for support of additional Police Force.

XV. All moneys paid in respect of such additional Force as is mentioned in the two last preceding Sections, shall be paid into a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the Governor in Council may pass; and all sums of money payable under those Sections shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Special Police Officers.

XVI. When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and that the ordinary Officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police Officer may require, to act as special Police Officers for such time and in such manner as he shall deem necessary; and it shall be the duty of such Magistrate at once to comply with such applications.

Powers of special Police Officers.

XVII. Every special Police Officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties and be subordinate to the same authorities as the ordinary Officers of Police.

Refusal to serve.

XVIII. If any person being appointed a special Police Officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or directions as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty Rupees for such neglect, refusal, or disobedience.

Police Officer not to resign without leave or two months' notice.

XIX. No Police Officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent: or

unless he shall have given to his superior Officer two months' notice in writing of his intention to do so. Nor shall any such Police Officer engage in any employment or office whatever, other than his duties under this Act unless expressly permitted to do so in writing under the seal of the Inspector General.

Unlawful assumption of Police functions, personation of Police, &c.

XX. From and after the passing of this Act, every person, not being or having ceased to be a duly enrolled Police Officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements, and appointments, and other necessaries which may have been supplied to him for the execution of his duty; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police Force, without being able to account satisfactorily for his possession thereof; or who shall put on the dress of any Police Officer, or any dress designed to represent it, or to be taken for it; or who shall otherwise personate the character or act the part of any Police Officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under assumed character, be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or both.

Duties of Police Officers.

XXI. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and shall have the powers of a Police Officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances, to preserve the peace, to apprehend disorderly and suspicious characters, to detect and bring offenders to justice to collect and communicate intelligence affecting the public peace, and promptly to obey and execute all orders and warrants lawfully issued to him.

XXII. to XLIII. Repealed by Act XVII., 1862.

Penalties for neglect of duty, &c.

XLIV. Every Police Officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under

Section X. of this Act; or who shall cease to perform the duties of his office without leave, or without having given two months' notice, as provided by this enactment, or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty in not bringing any person, who shall be in his custody without a warrant, before a Magistrate, as hereinbefore provided, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both.

Penalty for receiving unauthorized fees, &c.

XLV. Any Police Officer who shall on any pretext, or under any circumstance, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector General or other Officer acting under his order to collect or receive, shall on conviction before a Magistrate be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labor, not exceeding six months, or both.

Penalty for extortion, &c.

XLVI. Any Police Officer who shall directly or indirectly extort, exact, seek, or obtain any bribe or unauthorised reward or consideration, by any illegal threat, or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate; or who shall attempt to commit any of the offences above said, or shall be guilty of cowardice, shall be liable upon conviction before a Magistrate to a fine not exceeding twelve months' pay, or to imprisonment, with or without hard labor, not exceeding twelve months, or both. Provided always that nothing in the three last preceding Sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

XLVII. If any person shall assault or resist any Police Officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police Officer, such person shall, on conviction of such offence before any Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labor, not exceeding three months, or both.

Penalty for obstructing a Police Officer in the execution of his duty.

XLVIII. Any person who in any street, road, thoroughfare, or passage, within the limits of any Town, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, or damage of the residents and passengers, shall on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees or to imprisonment not exceeding eight days; and it shall be lawful for any Police Officer to take in custody without warrant any person who within view commits any such offence.

Certain duties of Police Officers. Obstruction and nuisance in road.

First.—Any person who shall slaughter any cattle or clean any carcase in the streets, any person riding or driving any cattle, recklessly and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passers.

Slaughtering cattle, furious riding, &c.

Second.—Any person who wantonly or cruelly abuses or tortures any animal.

Cruelty to animals.

Third.—Any person who shall keep any cattle, or conveyance of any kind standing in any road or street longer than is required for loading or unloading, or for taking up or setting down passengers, or who shall leave any conveyance in such a manner as to cause inconvenience or danger to the public.

Obstructing Passengers.

Fourth.—Any person exposing goods for sale on the road so as to obstruct passengers.

Exposing goods for sale on road.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials, or who constructs any pile, cow-shed, stable, or the like within the bounds of any thoroughfare; or who causes any offensive matter to run from any house, factory, dung-heap, or the like into the street.

Throwing dirt into street.

Sixth.—Any person found in any thoroughfare drunk and riotous, or incapable of taking care of himself.

Being found drunk in any thoroughfare.

Seventh.—Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself in or by the side of, or near any public street or thoroughfare, or by bathing or washing in any tank or reservoir, not being a place set apart for that purpose.

Indecent exposure of person.

Eighth.—Any person who neglects to fence in or duly to protect any well, tank, or other dangerous place or structure.

Neglect to protect dangerous places.

XLIX. The Superintendent and Superior Officers of Police may, as occasion requires, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which, and the times at which such processions may pass, keep order in the public roads, streets, thoroughfares, ghauts and landing places, and all other places of public resort, and prevent obstructions on the occasion of such assemblies and processions and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, ghauts or landing places, may be thronged, or may be liable to be obstructed; they may also regulate the use of music in the streets, on the occasion of native festivals and ceremonies and may direct all crowds of twelve or more persons to disperse, when they have reason to apprehend any breach of the peace; and every person opposing, or not obeying the orders so issued as aforesaid, or violating the conditions of such license shall be liable to a fine not exceeding one hundred rupees. Provided always, that nothing in this Section contained shall be deemed to interfere with the general control of the Magistrate over such matters.

Regulation of public processions, &c., and of carriages and persons at places of public resort.

License for use of music in streets.

L. In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict. Provided always that such charges against Police Officers above the rank of Private shall only be

Jurisdiction.

Proviso.

adjudicated on by European functionaries, and that Village Watchers alone shall be liable to conviction by Heads of Villages.

Power to prosecute not affected.

LI. Nothing contained in this Act, shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act; or to prevent any person from being liable under any other Law, Regulation, or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided always that no person shall be punished twice for the same offence.

Proviso.

Levy of fines.

LII. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of Magistrate, in manner provided by Act II. of 1839.

Limitation of action.

LIII. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general police powers as hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant, or to the Superintendent or other Superior Officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action; provided always that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Proviso.

Plea that act was done under a warrant.

LIV. When any action, prosecution, or proceeding shall be brought against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the

authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such Official shall be necessary, unless the Court shall see reason to doubt its being genuine. Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Proviso.

LV. This Act shall take effect in any and every such district as the Governor in Council shall appoint by notification published in the Official Gazette.

Scope of Act.

SCHEDULE.

Laws Repealed.

The following words in Section XXXVI. of Regulation IX., 1816: "The Officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it, and, in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party"; and Section XLII.

Regulation XI., 1816, Sections III., IV., V., VI., VII., XI., XV., XVI., XVII., XVIII., XXI., XXII., XXIII., XXIV., XXV., XXVI., Clause 2, XXIX., XXXV., XXXVIII., XXXIX., XL., XLI., XLVIII., and LV.

Regulation IV., 1821, Section III.

So much of Clause 2, Section II. of Regulation IV., 1821, as declares that all Subordinate Officers of Police of every description shall be subject to the authority of the Tahseeldars of their respective Districts.

So much of Section VII. of Regulation VI., 1831, as affects Village Watchers or other person, holding village offices in the Police Department.

Act VII. of 1843, Sections XXXIX. and XL.

LAWS TO BE AMENDED.

So much of Clause 4, Section XIII., of Regulation XI., 1816, as directs the Head of the Village to apprehend any person supposed to have committed a murder.

[So much of Clause 1, Section XXVII., of Regulation XI., 1816, as directs the Head of the Village to make every exertion to apprehend any person accused or suspected of having committed the offences referred to in the said Clause.] Bracketed paragraph repealed by Act XVII., 1862.

FORM A.

A. B. has been appointed a member of the Police Force under Act XXIV. of 1859, and is vested with the powers, functions, and privileges of a Police Officer.

Sections 22 to 43 repealed by Act XVII., 1862, and the above bracketed part of Schedule.

Amended by Act V., 1865, of the Madras Council.

BENGAL.—NATIVE PASSENGER VESSELS.

ACT No. XXV. of 1859.

[*Received the assent of the G. G. on the* 14*th Dec.*, 1859.

1, 2, 3, 4. Limits the number of Passengers in native Craft between specified ports to the proportion of one passenger to every 4 tons, without license; and (2) limits the number in licensed Craft to not exceeding one to every ton; and imposes certain conditions as to room to entitle Craft to obtain license; and (3) fixes fine for Tindals exceeding the number in unlicensed vessels; and (4) for Tindal exceeding the number in licensed vessels.

5. Excepts from the restriction established in s. 1., Craft proceeding from ports gazetted under the exception.

6. Vests in Collectors of Sea Customs the power of granting licenses, and prescribes the particulars of the license.

7, 8, 9. Establishes a penalty on Tindals going to sea without being provisioned according to law; and (8) also for not supplying the passengers with prescribed allowance of water and (9) provisions.

10. Tindal to sign and deliver to Customs Officer a list of his passengers, which list officer shall countersign if correct, and port clearance to be withheld till this is done.

11. Establishes penalty for bringing into port any craft loaded or provisioned contrary to the regulations of this Act.

12. Authorises the Principal Customs Officer of Port to enter and inspect passenger vessels.

13. Establishes penalty for landing passenger at wrong port without his consent.

14. Saves to passengers civil rights of action.

15, 16. Makes all offences under Act punishable in a summary manner and (16) makes offender liable to jurisdiction whenever found.

17. Authorises Magistrate to compensate persons aggrieved out of fine.

18. Interpretation clause.

19. Act to commence from expiration of Act I., 1857.

An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

Preamble.

Whereas it is necessary to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal, it is enacted as follows:

Number of Native Passengers to be carried in unlicensed Vessels.

I. No Vessels shall carry Native Passengers from any port or place under the Presidency of Fort St. George or from Chittagong or from any Port in the Province of Orissa, to any Port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon; or from any Port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, to any Port or place under the Presidency of Fort St. George, or to Chittagong, or to any Port in the Province of Orissa, in a proportion greater than one Passenger to every four tons of the burden of such Vessel, without a license.

Number of Native Passengers to be carried in licensed Vessel.

II. No Vessels shall be licensed to carry Passengers on any such voyage as aforesaid, in a proportion greater than one Passenger to every ton of burden, nor unless the Vessel has space on a deck or platform under hatches reserved for the accommodation of the passengers in the proportion of six superficial feet for every Passenger, with not less than five feet clear between the upper deck and the lower deck or platform; except a Vessel proceeding in ballast from any part of the Coast of the Gulf of Manaar or Palks' Strait to any Port or place in Ceylon which may be licensed to carry a number of passengers not exceeding the proportion of two and a half to every ton of her burden, provided that the whole of the

First exception.

space usually allotted for cargo and not occupied by ballast, be kept for the accommodation of the Passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the Passengers on the deck or decks of the Vessel be not less than four superficial feet for each Passenger; and except a vessel carrying Native Passengers between Chittagong and any Port or place on the coast of Arracan which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, subject to such regulations as the Government of Bengal may prescribe.

Second exception.

III. The Master or Tindal of any Vessel which shall carry Native Passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I., shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such proportion.

Penalty on Master of unlicensed Vessel.

IV. The Master or Tindal of any licensed Vessel which shall carry on any such voyage a greater number of Passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding twenty Rupees for each Passenger in excess of such number, or for each Passenger who is not provided with accommodation agreeably to the license.

Penalty on Master of licensed Vessel.

V. Passengers in a greater number than one Passenger to every four tons of the burden of any Vessel, shall not be shipped from the Territories under the Government of Fort St. George, or from the Province of Orissa, for Ceylon or the Eastern Coast of the Bay of Bengal, or the Straits of Malacca, or from the Eastern Coast of the Bay of Bengal, or the Straits of Malacca, for the said Territories or Province, or for Chittagong, except from such Ports as shall be from time to time appointed by the Local Government by an Order published in the Government Gazette, and in the Straits Settlement in such manner as the Governor shall notify; and the Master or Tindal of any Vessel who shall take on board Passengers for such voyage from any other Port or place in a

Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.

greater proportion to the burden of the Vessel than is above-mentioned, shall be liable to a fine not exceeding Twenty Rupees for each Passenger embarked.

Grant of licenses to Vessels.

VI. It shall be at the discretion of the Collectors of Sea Customs for the Ports appointed for shipping Native Passengers or such other persons as the Local Government may from time to time appoint for the purpose to grant licenses to vessels under this Act. Provided that such licenses shall not be granted, except for vessels within the exceptions in Section II., till the vessels have been surveyed according to such directions as shall be given from time to time by the Local Government. The license shall describe the Vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal, and the number and composition of the crew; and shall specify the number of Passengers she may carry and the space to be assigned for their accommodation.

Certain licensed Passenger Vessels to carry provisions according to appointed scale.

VII. The Master or Tindal of any Vessel licensed to carry Passengers from any Port in the Territories under the Government of Fort St. George or from Chittagong or from any Port in the Province of Orissa, to any Port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca, or from any Port on the Eastern Coast of the Bay of Bengal or the Straits of Malacca to any Port or place in the territories under the Government of Fort St. George, or to Chittagong, or to any Port in the Province of Orissa, which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of the Local Government published in the Government Gazette, and in the Straits' Settlements in such manner as the Governor shall notify, shall be liable to a fine not exceeding twenty rupees for each Passenger in excess of the number fully supplied with provisions and water according to such scale.

Penalty for omitting to supply Passengers with prescribed allowance of food and water.

VIII. The Master or Tindal of any Vessel licensed to carry Passengers as aforesaid, who shall wilfully and without satisfactory excuse omit to supply to every Passenger the prescribed allowance of

food and water, shall be liable for such omission to a fine which may extend to twenty rupees for every Passenger who has suffered privation thereby.

Supply of provisions on board Passenger Ships plying to and from Ceylon.

IX. The Master or Tindal of any Vessel licensed to carry Passengers from any Port under the Government of Fort St. George to Ceylon, or between Chittagong and any Port or place on the Coast of Arracan, who shall proceed on any such voyage without having laid in a supply of water and provisions for the Passengers according to a scale to be fixed by the Collector of Sea Customs for such Port, or such other person as the Local Government may from time to time appoint for the purpose, which shall be hung up at the Custom House of the Port, shall be liable to a fine not exceeding one hundred rupees.

List of Passengers to be signed by Master.

X. The Master or Tindal of any Vessel licensed to carry Passengers, as hereinbefore provided, shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the Local Government may from time to time appoint for the purpose, a list, according to the form annexed to this Act, of all Passengers to be conveyed in such Vessel; and such Officer, after satisfying himself of the correctness of the same, and that the number of Passengers authorized is not exceeded, shall countersign and return one such list to the Master or Tindal, to be produced to the proper Officer at the Port to which the Vessel is bound; and should any additional Passengers engage to proceed by such Vessel after such list has been so countersigned, the Master or Tindal may insert their names in the original list, obtaining the signature of the controlling Officer as before. The Officer in charge of the Customs may withhold the Port Clearance till this rule is complied with.

Additional Passengers.

Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.

XI. If any Vessel, bringing Native Passengers into any Port or place whatsoever on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, from any Foreign European Settlement situate on the line of coast within the limits of the Presidency of Fort Saint George, shall have on board a greater number of Passengers than in the

proportion prescribed in Section I. of this Act, the Master or Tindal of such Vessel shall be liable to a penalty of twenty rupees for each Passenger in excess of such proportion, unless the Vessel shall have been licensed under Section VI. of this Act, and shall have complied with the stipulations as regards space, water, and provisions laid down in Section II.

Penalty for impeding entry or inspection.

XII. The Principal Officer in charge of the Customs at the Port of embarkation or of destination, or any person authorized by him, shall be at liberty at all times to enter and inspect any Passenger Vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding fifty rupees.

Penalty on landing passenger at a place other than that at which he has contracted to land.

XIII. If any Native Passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall for each offence be liable to a penalty not exceeding two hundred rupees.

Passenger's right of action preserved.

XIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences and recovery of penalties.

XV. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Tindal of a Ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on Ship.

Jurisdiction.

XVI. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Application of Penalties.

XVII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Interpretation. "Magistrate."

XVIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII. of 1856, a Joint Magistrate, and any person lawfully exercising the power of a Magistrate, and a Justice of the Peace.

"Local Government."

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the Port or place in question is situate.

Commencement of Act.

XIX. This Act shall commence and take effect from the expiration of Act I., 1857.

SCHEDULE.

Form.

1	2	3	4	5	6	7
Name of Vessel.	Name of Master.	Tons per register.	Port of embarkation.	Number and names of Passengers.	Port at which Passengers have contracted to be landed.	Date of Departure.

(Signed) ——————, *Master.*

(Countersigned,) ——————, *Principal Officer of Customs.*

Note.—In the case of Vessels carrying Passengers to Ceylon, or between Chittagong and any Port or place on the Coast of Arracan, it will be sufficient to insert the number, and not the names, of Passengers in Column 5.

Explained by Act II., 1862, of the Madras Council.

ARMS AND AMMUNITION.

Act No. XXVI. of 1859.

[*Received the assent of the G. G. on the* 14*th Dec.*, 1859.

Continues Act XXVIII. of 1857 to the 30th June, 1860.

An Act to continue in force for a further period Act XXVIII. of 1857.

Expired.

STATE OFFENCES.

Act No. XXVII. of 1859.

[*Received the assent of the G. G. on the* 14*th Dec.*, 1859.

Continues Acts XIV., 1857; and XVI., 1857; and XVII., 1857, to the end of 1860.

An Act to continue in force for a further period Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857.

Expired.

FOREIGNERS.—PASSPORT ACT.

Act No. XXVIII. of 1859.

[*Received the assent of the G. G. on the* 26*th Dec.*, 1859.

Recites expediency of reviving and continuing Act XXXIII., 1857.

1. Continues the said Act for two years to be reckoned from date of its expiration.

An Act to revive and continue in force for a further period Act XXXIII. of 1857 (to make further provision relating to Foreigners).

Further continued by Act I., 1862, for two years from the 5th of Dec., 1861. Expired. Act III., 1864, is the present law respecting Foreigners.

N. W. PROVINCES.—SALT DUTY.

Act No. I. of 1860.

[*Passed on the 5th January*, 1860.

Recites expediency of increasing the Duty on Salt in the N. W. Provinces.

1. Repeals the Duty under Act XIV., 1843, s. 2.

2. Enacts new Duty in lieu.

3. Indemnifies Officers for collecting the Duty authorised by this Act before the passing of the Act.

An Act to empower the Governor General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.

Preamble.

Whereas it is expedient to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal, it is enacted as follows:

Law Repealed.

I. So much of Section II. of Act XIV. of 1843 (*for Regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*), as prescribes the levy of a Duty of two Rupees per maund on the Import of Salt into the said Provinces, and of a further Duty of one Rupee per maund on the transmission thereof to the Eastward of Allahabad, is hereby repealed.

Customs Duty on Salt imported into the North-Western Provinces.

II. It shall be lawful for the Governor General in Council to order the levy, on and after the 24th day of December, 1859, of a Customs Duty not exceeding three Rupees per maund on Salt imported into the North-Western Provinces of the Presidency of Bengal. A further Duty not exceeding one Rupee per maund, to be fixed by order of the Governor General in Council, shall, on and after the said 24th day of December, 1859, be leviable on the transmission of Salt to the Eastward of Allahabad.

Indemnity to Collectors, &c.

III. Every Collector of Customs and other Officer is hereby indemnified for any thing done on and after the said 24th day of December, 1859, in collecting or enforcing the Duty imposed under the provisions of this Act or by virtue of any order of Government heretofore made authorizing the levy of any such Duty; or in otherwise carrying this Act into effect: and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

CARRIAGE OF PASSENGERS BY SEA.

ACT No. II. OF 1860.

[*Passed on the 15th January*, 1860.

Recites s. 99 of Passengers' Act of Parliament.

1. Applies ss. 1, 2, 3 and 4 of this Act, being parts of the Act of Parliament, to specified voyages.

2, 3. Passengers on such voyages if picked up at Sea may be forwarded to destination by Governor or Consular agent; and (3) if taken to place out of the course of the voyage may also be forwarded by Governor or Consular agent, unless Master of Ship enters into undertaking.

4. Expenses incurred by Governor or Consular agent under last two Sections to be a debt to H. M. from the owner, Charterer and Master of the Ship.

An Act to amend the law relating to the Carriage of Passengers by Sea.

Preamble.

Whereas by Section XCIX. of an Act of the Imperial Parliament called "The Passengers' Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any Ports or places within the Territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's Possessions in like manner as the provisions of this Act may be enforced." And whereas it is expedient to make certain parts of the said Act of Parliament applicable to the carriage of Passengers upon the voyages hereinafter specified, it is enacted as follows:

Certain Provisions of the Statute made applicable.

I. The provisions contained in Sections II., III., and IV., of this Act (being parts of the said Act of Parliament) are declared applicable to the carriage of Passengers upon the following voyages:—

Voyages from the Ports of Calcutta, Madras, and Bombay, to the Mauritius, under Act IV. of 1842.

Voyages from the Ports of Calcutta, Madras, and Bombay, to Jamaica, British Guiana, and Trinidad, under Act XXI. of 1844.

Voyages from the Ports of Calcutta, Madras, and Bombay, to St. Lucia and Grenada, under Act XXXI. of 1855.

Voyages from Ports in British India, to Ports in the Red Sea or Persian Gulf, under Act XXI. of 1858.

Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.

II. If the Passengers on any such voyage as is specified in the last preceding Section, shall be taken off from the ship carrying such Passengers, or shall be picked up at Sea from any boat, raft, or otherwise, it shall be lawful, if the Port or place to which they shall be conveyed, shall be in any of Her Majesty's Colonial Possessions, for the Governor of such Colony, or for any person authorised by him for the purpose, or if in any Foreign country, for Her Majesty's Consular Officer, at such Port or place therein, to defray all or or any part of the expenses thereby incurred.

Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.

III. If any Passenger of any such Passenger ship as aforesaid shall, without any neglect or default of his own, find himself within any Colonial or Foreign Port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such Colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at such Foreign Port or place, as the case may be, to forward such Passenger to his intended destination, unless the Master of such ship shall, within forty-eight hours of the arrival of such Passenger, give to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such Passenger to his original destination, and unless such Master shall accordingly forward or carry him on within that period.

Expenses incurred under the two preceding Sections to be a Crown debt.

IV. All expenses incurred under the last two preceding Sections, or either of them, by or by the authority of such Governor or Consular Officer, as aforesaid, including the cost of maintaining the Passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and her successors from the Owner, Charterer,

and Master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or Consular Officer (as the case may be) stating the total amount of such expenses, shall, in any suit or other proceeding for the recovery of such debt, be received in evidence without proof of the hand-writing or of the Official character of such Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred. Provided nevertheless that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the Owner, Charterer, or Master of such Passenger ship or any of them, from or on account of the whole number of Passengers who may have embarked in such ship; which total amount of passage money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such Passengers are forwarded or conveyed to their intended destination under the provision of the last preceding Section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage.

Passengers forwarded by Government, &c., not entitled to compensation.

Act XXI., 1858, is an Act for the regulation of Native Passenger Ships and Steam Vessels intended to carry Passengers on coasting voyages.

BENGAL.—SESSIONS JUDGES.—CRIMINAL LAW.

ACT No. III. OF 1860.

[*Passed on the* 16*th January*, 1860.

Recites expediency of enlarging the power of Sessions Judges to pass Criminal Sentences.

1. Repeals R. 17, 1817, s. 6, c. 3, and s. 9, c. 3; and modifies R. 6, 1832, s. 4.

2, 3. Empowers Sessions Judge to sentence to 7 years' imprisonment with labor in irons for rape; also (3) for penal offence under R. 6, 1832.

4, 5. Empowers Sessions Judge to pass sentence for perjury, forgery, and subornation, and procuring those crimes under R. 2, 1807, and R. 17, 1817, unless (5) he considers a severer sentence than he can pass necessary.

An Act to empower Sessions Judges to pass sentence in certain cases without reference to the Sudder Court.

Repealed by Act XVII., 1862.

CODE OF CIVIL PROCEDURE.

Act No. IV. of 1860.

[*Passed on the 23rd January*, 1860.

Recites expediency of amending Act VIII., 1859.

1. Repeals provision requiring three Judges on appeals in Sudder Adawlut, and provides for different number and new procedure.

2. Repeals Act VIII., 1859, s. 215, and substitutes new provision.

3. Empowers Local Government to extend Civil Procedure Act to non-regulation parts with limitations and conditions attached, but such extension to be sanctioned by G. G. in C.

An Act to amend Act VIII. of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.

Repealed by Act XXIII., 1861.

CATTLE TRESPASS.

Act No. V. of 1860.

[*Passed on the 8th February*, 1860.

Recites part of Act III., 1857, as respects fines.

1. Surplus of fines after payment of salaries and expenses may be applied to roads, bridges, &c.

2, 3, 4. In Madras gives jurisdiction in Cattle Trespass cases to Judge or Magistrate but not to 3) Head of Police, Police Ameens, Village Moonsiffs, except by order of Magistrate; and (4) construes Act III., 1857, s. 4.

5. Act to be read as part of Act III., 1857.

An Act to amend Act III. of 1857, relating to trespasses by Cattle.

Preamble.

Whereas, under the provisions of Act III. of 1857 fines may be levied from the owners of Cattle found trespassing and doing damage, or straying in

any public place, and all unclaimed Cattle so found may be sold after sufficient notice; and whereas it is provided in the said Act that the sums received on account of fines, and the unclaimed proceeds of the sale of unclaimed Cattle shall be applied to the payment of the salaries of pound-keepers and other purposes connected with the execution of the Act; and whereas the amount of the said sums may be larger than is required for the said purposes, and it is expedient to provide for their legal application to other purposes, it is enacted as follows:

Appropriation of surplus fines, &c.

I. When the amount of the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle is larger than is required for the payment of the salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds and other purposes connected with the execution of the said Act, any surplus which may remain after making full provision for the said salaries and expenses may be applied, under the direction of the Local Government, to the construction and repair of roads and bridges, and other works of a like nature.

MADRAS PRESIDENCY.

Procedure in dealing with the offences of forcibly opposing the seizure of Cattle, or rescuing Cattle.

II. In the territories under the Government of Fort Saint George, it shall be lawful for Police Officers, in dealing according to the provisions of Section XXVII., Regulation XI., 1816, of the Madras Code with the offences specified in Section XIII. of the said Act, to forward their proceedings with the offenders and witnesses either to the Magistrate or to the Criminal Judge. Magistrates shall have jurisdiction to award punishment under the said Act for such offences within the limits of the powers vested in them by law.

MADRAS PRESIDENCY.

Heads of Police, &c., not to be deemed Officers having Criminal jurisdiction within the meaning of Section XVI., Act III., of 1857.

III. In the territories under the Government of Fort Saint George, Heads of Police, Police Ameens, and Village Moonsiffs shall not be deemed Officers having Criminal jurisdiction authorized to receive and try charges without reference by the Magistrate within the meaning of Section XIV. of the said Act.

IV. Section IV. of the said Act shall be read throughout the

MADRAS PRESIDENCY. Construction of the words "Heads of Villages" in Section IV., Act III., of 1857.

General Police District of the Presidency of Madras, as if the words "Village Inspectors" were substituted for "Heads of Villages."

Act to be read as part of Act III. of 1857.

V. This Act shall be read with and taken as part of Act III. of 1857.

ARTICLES OF WAR.—NATIVE ARMY.

ACT NO. VI. OF 1860.

[*Passed on the 23rd February*, 1860.

Recites expediency of amending Articles 78 and 112.

1. Adds a Clause to Art. 78., empowering C. in C. to confer powers of District or Garrison Court Martial on Commanding Officer to try offenders and carry out Sentences: (2) such Commanding Officer to be a Court Martial; (3) but to hold Court in presence of two or more Commissioned Officers, &c.

2. Adds a clause to the 112th Art. to forfeit pay of soldiers confined under that Art.

An Act to amend Act XIX. of 1847 (Articles of War for the Native Army).

Repealed by Act XXIX., 1861.

LIMITED LIABILITY.—JOINT STOCK BANKS.

ACT NO. VII. OF 1860.

[*Passed on the 24th February*, 1860.

Recites expediency of making Joint Stock Banks to form under limited liability.

1. Repeals the restrictions of Act XIX., 1857, s. 1, which excludes J. S. Banks from that Act, but liability not to be limited in regard to issue of Notes in India.

2. Existing Banks before registering for limited liability to give notice to every creditor.

3. Statement in form of Schedule to Act to be stuck up on Bank twice a year.

4. Vests in registered Company all assets held in trust for the old Bank.

5. Empowers Banks consisting of 7 or more persons with shares of fixed amounts to register on vote of majority of shareholders present and proxies; and on registration deed of settlement to cease to operate so far as it is inconsistent with Act XIX., 1817.

6, 7. Registration not to affect or limit liability of Bank existing at time of registration; nor (7) liability of shareholders.

8. Suits pending against old Bank may be continued; but execution not to issue against individual shareholders, &c.

9. Banks registered under this Act to be wound up under Act XIX., 1857.

10, 11. Act not to affect Banks of Bengal, Bombay and Madras, and (11) to be read as part of Act XIX., 1857.

Schedule.

An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.

Preamble.

Whereas it is expedient to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability, it is enacted as follows:

Laws repealed.

I. So much of Section I. of Act XIX. of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without Limited Liability of the Members thereof*), as provides that nothing in that Act shall authorize any persons to form themselves into a Joint Stock Company or Association with Limited Liability for the purpose of Banking; and so much of Section XCIX. of the said Act as provides that no Company established for the purpose of Banking shall be registered under that Act as a Limited Company, are hereby repealed, subject to the following proviso, that no Banking Company, claiming to issue notes in India shall be entitled to Limited Liability in respect of such issue, but shall continue subject to unlimited Liability in respect thereof, and that, if necessary, the assets shall be marshalled for the benefit of the general creditors, and the shareholders shall be liable for the whole amount of the issue in addition to the sum for which they would be liable as Shareholders of a Limited Company.

Existing Company, before obtaining registration under this Act, to give notice to Customers.

II. Every existing Banking Company which shall register itself as a Limited Banking Company, shall at least thirty days previously to obtaining a certificate of Registration with Limited Liability, give notice that it is intended so to register the same, to every person and partnership firm who shall have a Banking Account with the Company, and such notice shall be given either by delivering the same to such person or

firm, or leaving the same or putting the same into the Post in a registered letter addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company; and in case the Company shall omit to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof, down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with Limited Liability shall have no operation.

Limited Banking Company to furnish a statement.

III. Every Limited Joint Stock Banking Company shall, before it commences business, or if a Banking Company, at the time carrying on business with unlimited Liability, before it avails itself of the provisions of this Act, and also on the 1st day of February and 1st day of August in every year during which it carries on business, make a statement in the form contained in the Schedule hereto annexed, or as near thereto as circumstances will admit; such statement shall be in addition to the balance sheet required by the said Act to be made out and filed with the Registrar of Joint Stock Companies: a copy of such statement shall be put up in a conspicuous place in the Registered Office of the Company, and in every branch Office or place where the Banking business of the Company is carried on, and if default is made in due compliance with the provisions of this Section, each Director shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and such penalties shall be recovered in a summary manner.

Trust property.

IV. All such estate or interest in moveable and immoveable property, and all such deeds, bonds, obligations, and rights as may belong to, or be vested in, any person or persons in trust for any Banking Company at the date of its Registration under this Act, or in trust for any other Company at the date of its Registration under the said Act XIX. of 1857, shall immediately on Registration vest in such Banking or other Company, but no merger shall take place of any estates by reason of their uniting in the Company under this Section,

without the express consent of the Company, certified by some instrument under their common seal.

Existing Banking Companies may register under this Act.

V. Any Banking Company consisting of seven or more persons having a capital of fixed amount and divided into shares also of fixed amount, legally carrying on the business of Banking previously to the passing of this Act, may at any time hereafter, with the assent of a majority of such of its Shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the Company, by proxy at some General Meeting summoned for the purpose, register itself as a Company under this Act, and when so registered all such provisions contained in any Letters Patent or Deed of Settlement constituting or regulating the Company as are inconsistent with the said Act XIX. of 1857, or with this Act, shall no longer apply to the Company so registered, but such Registration shall not take away or affect any powers previously enjoyed by such Company of Banking, issuing notes payable on demand, or of doing any other thing.

Registration under this Act not to affect obligation incurred previously to registration.

VI. The Registration under this Act of any Banking Company existing at the time of the passing of this Act and hereby authorised to be registered, shall not affect or prejudice the liability of such Company to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into, by, to, with or on account of such Company, previously to such registration, and all such debts, obligations, and contracts shall be binding on the Company when so registered, and the other parties thereto, to the same extent as if such Registration had not taken place.

Saving of liabilities of persons holding shares before registration under Act.

VII. Every person who at or previously to the date of the Registration under this Act of any Banking Company hereby authorized to be registered, may have held shares in such Company, shall, in the event of the same being wound-up by the Court or voluntarily, be liable to contribute to the assets of the Company the same amount that he would, if this Act had not been passed, have been liable to pay to the Company, for, or on account of any debt of the Company, in pursuance of any action, suit,

judgment, or other legal proceeding that might, if this Act had not been passed, have been instituted or enforced against himself or the Company.

Continuation of existing actions and suits.

VIII. All such actions, suits, and other legal proceedings as may at the time of the Registration under this Act of any Company hereby authorized to be registered have been commenced by or against such Company or the Public Officer thereof, may be continued in the same manner as if such Registration had not taken place; nevertheless execution shall not issue against the effects of any individual Shareholder in, or member of, such Company upon any judgment, decree, or order obtained against such Company in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding up the Company in manner directed by the said Act XIX. of 1857.

Winding-up.

IX. All Companies registered under this Act shall be wound-up in the manner directed by the said Act XIX. of 1857.

Act not to apply to Banks of Bengal, Madras, or Bombay.

X. Nothing in this Act shall affect Act VI. of 1839 (*relating to the Bank of Bengal*), Act III. of 1840 (*for the incorporation of a Bank at Bombay*), or Act IX. of 1843 (*for the incorporation of a Bank at Madras*), or shall be deemed to apply to the several Banks of Bengal, Madras, and Bombay incorporated by the said Acts respectively.

Construction of Act.

XI. This Act shall be deemed to be incorporated with and to form part of the said Act XIX. of 1857.

SCHEDULE.

Form of Statement to be published by a Limited Joint Stock Banking Company.

The Liability of the Shareholders is limited.

The capital of the Company is divided into Shares of Rupees each.

The number of Shares issued is

Calls to the amount of

per Share have been made, under which the sum of

Rupees has been received.

The liabilities of the Company on the First day of January (or July) were—

	Rs.	As.	P.
Notes issued			
Deposits not bearing Interest			
Deposits bearing Interest			
Seven Day and other Bills			
Total			

The assets of the Company on that day were—

	Rs.	As.	P.
Government Securities			
Bills of Exchange			
Loans on Mortgage			
Other Loans			
Bank Premises			
Other Securities, exclusive of unpaid Calls on Shares			
Total			

Dated the First day of or One thousand Eight hundred and

Repealed by Act X., 1866, "The Indian Companies' Act, 1866," and see Note to Act XIX., 1857.

ELECTRIC TELEGRAPHS.

ACT No. VIII. OF 1860.

[*Passed on the 12th March*, 1860.

Recites expediency of making better regulations for Electric Telegraphs.

1. Repeals Act XXXIV., 1854.

2. Confers on G. G. in C. exclusive privilege of establishing Electric Telegraphs in India, but G. G. in C. may grant license to establish a Telegraph, subject to revocation.

3, 4. Establishes penalty for establishing or maintaining, and (4) for using Telegraph line without, or after revocation of license.

5. Empowers the G. G. in C. to take possession of licensed line on occurrence of public emergency.

6. Enjoins Railway Companies to permit G. G. in C. to establish Telegraph along their line.

7. Empowers G. G. in C. to frame rules for Electric Telegraphs.

8. Exempts Government from responsibility for inaccuracy in messages, and all persons from responsibility, except in case of negligence, malice, or fraud.

9, 10, 11, 12, 13, 14, 15. Establish fine for entering, &c., the signal room and (10) for causing interruption to transmission of signals, cutting the wire &c.; and (11) on servants in the Telegraph department for secreting, &c., messages; and (12) for offering bribe to persons in Telegraph department; and (13) on such persons for drunkenness, &c., whereby messages are endangered, and for loitering and delay; and (14) for fraud in transmitting unpaid message; and (15) for false or fabricated message.

16, 17, 18. For offences under ss. 10 to 15, persons, not being European British subjects, may be tried by Magistrate, and European British subjects by Supreme Court; and (17) all classes by Supreme Court for offences committed within its local limits; or (18) by Magistrate if punishable only by fine.

19. Fines may be levied by distress and sale of offender's goods, and in default of satisfaction, offender to be imprisoned.

20. Extends the Act to offences against the Act committed by Electric Telegraph servants in Foreign Native States.

21. Extends word "Magistrate" to "Joint Magistrate," and to persons having the powers of Magistrates, and the word "Fine" to penalties and forfeitures.

22. Empowers G. G. in C. to establish rules for licensed telegraphs, and to telegraphs in foreign native states.

An Act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

Whereas it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India, it is enacted as follows:

Act repealed.

I. Act XXXIV. of 1854 (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed, except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation, and except also as to any license for the establishment of a line of Electric Telegraph granted under the said Act. All

things done under the authority or in pursuance of the said Act, shall be as valid and effectual as if this Act had not been passed.

Governor General in Council to have the exclusive privilege of establishing Electric Telegraphs.

Proviso.

II. Within the British Territories in India, the Governor General of India in Council shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

III. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding one thousand rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred rupees.

Penalty for using or working such Telegraphs.

IV. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty rupees.

Government may take possession of Telegraphs established by license.

V. The Governor General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said Territories.

Government may establish Telegraphs on land of Railway Company.

VI. Any Railway Company, on being required so to do by the Governor General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway, a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Governor General in Council to frame rules for the conduct of Government Telegraphs.

VII. The Governor General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and

therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Government not responsible for loss or damage.

VIII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

Penalty for intruding into signal room, &c.

IX. Whoever shall, without permission, enter into the signal room of a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any Officer or servant employed therein, or shall wilfully obstruct or impede any such Officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred rupees.

Penalties for cutting the line.

X. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for omitting to transmit or deliver messages or for divulging messages, &c.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the Official order of a Secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant-Governor of Bengal or of the North-Western Provinces, or of the Punjab, or Chief Commissioner of Oude, or such other Officers as the Governor General of India in Council shall authorise to give such order, divulge any message or the purport of any message or signal to any person not entitled to receive, or to become acquainted with the same, shall be liable to be

imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalty for offering a bribe.

XII. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department, in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both.

Penalty for misconduct.

XIII. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter, or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

Penalties for sending messages without payment to Government.

XIV. Whoever, being in such employ, shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for sending fabricated message.

XV. Whoever shall transmit or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Jurisdiction beyond local limits of Supreme Court.

XVI. Any person, not being a European British subject, who shall, beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in Sections X., XI., XII., XIII., XIV. and XV. of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

Jurisdiction within local limits of Supreme Court.

XVII. Any person, whether a European British subject or not, who shall within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter commit any of the offences referred to in the last preceding Section, shall be punishable upon conviction before such Court.

Fines how to be adjudged.

XVIII. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of Police for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for the settlement of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Magistrate of Police shall be punishable upon summary conviction.

Fines, how levied.

XIX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Police Magistrate, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the

offender to prison, there to be imprisoned only or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if not sufficient distress, &c.

XX. If any Servant of the Government, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the Government of India in which an Electric Telegraph is established by the Government, shall within the dominions of such Prince or State commit any act hereby prohibited or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such Servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last-mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to take cognizance of offences committed in such dominions by Servants of the Government, or by any Court or Magistrate or other competent Officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

Authority to punish Government Servants who commit offences against this Act, in Foreign territory.

XXI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "Fine" shall include a penalty or forfeiture.

Explanation of terms.

XXII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to

Government to frame rules for Telegraphs established by license.

persons using the same, or employed in connexion therewith. It shall also be lawful for the Governor General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any Electric Telegraph established or to be established within the British Territories in India by any Foreign Prince or State with the consent of the British Government, and to persons using such Telegraph or employed in connexion therewith.

And to declare Act applicable to Telegraphs established within British Territories by Foreign Powers.

EMPLOYERS AND WORKMEN.

Act No. IX. of 1860.

[*Passed on the* 12*th March*, 1860.

Recites expediency of providing for speedy determination of disputes between workmen and their employers on Railways and other public works.

1, 2, 3, 4, 5. Empowers Local Governments to give Magistrates jurisdiction to decide disputes on account of wages, hire of carriage and price of work between workmen on Railways and public works and their employers, (2) up to 200 Rs. within six months; and (3) within specified local limits; and (4) to proceed according to Civil Procedure rules of Act VIII., 1859; and (5) without appeal.

6, 7. Magistrate may order payment of what is due and levy amount by distress and sale of goods; and (7) decide if question arises as to liability of goods, under rules of Act VIII., 1859.

8. Workmen under voluntary engagement for certain period or for specified work on any Railway, &c., neglecting or refusing to perform the work, to be liable to a fine or to order for specific performance by himself or another, and in default to imprisonment.

9. Act to apply only where extended by orders of Local or General Government.

An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers.

Whereas it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers, it is enacted as follows:

Preamble.

I. It shall be lawful for the Executive Government of any Presidency or place within the British Territories in India to invest any Magistrate or other Officer exercising the powers of a Magistrate with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any Railway, Canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such Executive Government, and the person or persons by whom such workmen are employed.

Government may empower any Magistrate to decide disputes as to wages or price of work.

II. Magistrates empowered to decide disputes under the preceding Section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred Rupees, and the claim is preferred within six months from the date on which the cause of action arose.

Magistrates to have Jurisdiction in what cases.

III. The Executive Government shall fix, and may, from time to time, alter the local limits of the jurisdiction of any Magistrate invested with jurisdiction under Section I. of this Act. A Magistrate so invested may hold a Court for the investigation of disputes of the nature described in the said Section, at any place within the local limits of his jurisdiction.

Government to fix and alter local limits of jurisdiction.

IV. The rules for the institution of suits as provided in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding Sections, and the procedure adopted shall be that provided for in cases in which the suit may be disposed of at the first hearing.

Procedure in the investigation of disputes.

V. There shall be no appeal against any decision passed under this Act.

No appeal.

VI. The Magistrate having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate

Order for Payment.

Distress.

shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

Property distrained.

VII. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII. of 1859 for the determination of the like questions arising in the execution of decrees.

Penalty for workmen neglecting or refusing to work.

VIII. Any person who shall voluntarily engage for a stipulated period to work on any Railway, Canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section I. of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty Rupees. The Magistrate may, at the request of the complainant or of any one authorised to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labor for any term not exceeding two months.

Operation of Act.

IX. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor General of India in Council, or of the Executive Government of any Presidency or place.

CUSTOMS DUTIES.

Act No. X. of 1860.

[*Received the assent of the G. G. on the 12th March*, 1860.

Recites expediency of altering the Customs Duties.

1. From 18th Feb., 1860, Customs Duties under Acts VII. and XXIII., 1859, to cease, and to be levied according to Schedules A. and B. of this Act;

Duties on salt and opium under former Act excepted; exemption of Free Ports to continue.

2. Exempts from operation of this Act Cotton Twist and Yarn arrived before 18th February, or shipped before 18th February, and sold at a price including the old duty.

3. Collector to decide, subject to appeal to Government, all questions under Customs Act in which the revenue is concerned.

4. Bonded goods to be liable to new duties.

Schedules A. Import Duties; B. Export Duties.

An Act to amend Act VII. of 1859, to alter the Duties of Customs on goods imported or exported by Sea.

Preamble.

Whereas it is expedient to amend the law relating to Customs Duties, it is enacted as follows:

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

I. From and after the 18th day of February, 1860, in lieu of the Customs Duties authorized to be charged in Acts VII. of 1859 (*to alter the Duties of Customs on goods imported or exported by sea*), and XXIII. of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), there shall be levied and collected the Duties as contained in the two Schedules A. and B. annexed to this Act; provided always that nothing herein contained shall be deemed to alter the existing Duties upon Salt and Opium, or to authorize the levy of Duties in any free Port, or to affect the provisions of Acts VI. of 1848 (*for equalizing the Duties on goods imported and exported on Foreign and British bottoms, and for abolishing Duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), and VII. of 1848 (*to except certain free Ports from the operation of Section III., Act No. VI. of* 1848, *and otherwise to amend that Act*).

Proviso.

II. Expired.

III., IV. Repealed by Act VI., 1863.

SCHEDULES A. and B. Repealed by Act XI., 1862, and by Act XVII., 1865, s. 1.

Altered as respects Pepper from Cochin by Act III., 1861.

3. Certificate of Agent as to service of process to be received *primâ facie* as true without proof.

4. G. G. in C. to define for the purposes of this Act the limits of the King of Oude's premises.

An Act to provide for the execution of process within the premises occupied by His Majesty the King of Oude.

Inoperative.

CALCUTTA.—CIRCULAR AND EASTERN CANALS.

Act No. XV. of 1860.

[*Received the assent of the G. G. on the* 26*th April*, 1860.

Recites expediency of opening for traffic a new canal.

1, 2. Defines the line of the new canal, and extends Act XXII., 1836, to it.

An Act to amend and extend Act XXII., of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals).

Preamble.

Whereas it has been found necessary to open for traffic a new Canal leading from the late Toll House at Dhappa to Ooltadanga, and it is expedient that a Toll should be levied on Boats, Rafts, and Floats passing through the said Canal, it is enacted as follows:

New line of Canal made subject to Section II., Act XXII., of 1836.

I. The following line of navigation, from the date of the passing of this Act, shall be subject to the provisions of Section II., Act XXII., of 1836, in like manner as is enacted with respect to the two lines of navigation therein described (that is to say):—

The line of Canal running North from the late Toll House at Dhappa to Ooltadanga where it joins the Circular Canal.

Act to be construed as part of Act XXII. of 1836.

II. This Act shall be construed as part of the said Act XXII. of 1836.

PRESIDENCY TOWNS.—MUNICIPAL.

Act No. XVI. of 1860.

[*Received the assent of the G. G. on the* 26*th April*, 1860.

1. Repeals Act XIV., 1856, s. 121.

2. Bye-law of Municipal Commissioners to cease after disallowance by Local Government.

3. Disallowance of Bye-Law to be published in Government Gazette.

An Act to amend Act XIV. of 1856.

Preamble.

Whereas it is enacted by Section CXXI. of Act XIV., 1856 (*for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), that certain Bye-laws made by the Municipal Commissioners shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof, and that no such Bye-law shall have effect if disallowed by order of the Legislative Council; and whereas doubts have arisen whether the Legislative Council can legally disallow any such Bye-laws by an order, or in any other manner than by a law or Regulation, and it is expedient to avoid such doubts and to make other provision for disallowing such Bye-laws, it is enacted as follows:

Section repealed.

I. Section CXXI. of the said Act XIV. of 1855, is hereby repealed.

Disallowance of Bye-laws by the Local Government.

II. No Bye-law made under the provisions of the said Act, though confirmed by the Local Government, shall continue in force after it shall have been disallowed by the Local Government, except as to an act done or a breach of such Bye-law committed before the disallowance thereof.

Publication of disallowance.

III. Every disallowance of such Bye-law shall be published in the Government Gazette, or in one or more of the public newspapers; and all Courts and Magistrates shall take judicial notice of such disallowance.

Repealed by Act II., 1865, of the Bombay Council, as respects Bombay.

ESCAPED CONVICTS.

Act No. XVII. of 1860.

[*Received the assent of the G. G. on the 26th April*, 1860.

Recites expediency of repealing Act V., 1858.

1. Repeals Act V., 1858.

2. Empowers the Local Governments to declare the limit of time within which escaped convicts guilty of specified offence in specified districts ought to have surrendered themselves.

3. Escaped convicts who have not surrendered within the specified time may be sentenced to transportation for life or not less than 5 years or to imprisonment, &c. Magistrate may pass sentence under this Act beyond the ordinary limits of his power.

4. Legalises all sentences already passed under Act V., 1858.

5. Exempts from this Act escaped convicts already re-committed.

6. Limits s. 2 of this Act to convicts for specified crimes, viz., rebellion, &c.

7. Persons harbouring or concealing, &c., convicts, to be liable to imprisonment, &c.

8. Makes proprietors and farmers of lands responsible for giving intelligence to Magistrates, &c., of the resort of convicts to places on their estates.

9. Empowers Magistrates to pardon minor offenders on condition of giving information of escaped convicts under this Act.

10. Offences under this Act may be tried by Sessions Judge or special Commissioner from whom there is to be no appeal.

11. Convicts escaped from prison may be transported by order of Local Government for unexpired portion of sentence and any additional sentence, if together, not less than five years.

An Act to repeal Act V. of 1858 (for the punishment of certain Offenders who have escaped from Gaol, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof.

Preamble.

Whereas it is expedient to repeal Act V. of 1858 (*for the punishment of certain Offenders who have escaped from Gaol, and of persons who shall knowingly harbour such Offenders*), and to make certain provisions in lieu thereof, it is enacted as follows:

Act V. of 1858 repealed

I. Act V. of 1858 is repealed except as to any sentences passed under that Act.

II. to X. Defunct or inoperative by lapse of time.

XI. Repealed by Act XVII., 1862.

THE GOVERNOR GENERAL.

Act No. XVIII. of 1860.

[*Received the assent of the G. G. on the 26th April*, 1860.

Continues for three months from the 9th May, 1860, Act XXI., 1859, for enabling the G. G. to prolong his absence from Calcutta.

An Act to continue in force for a further period of three months

Act XXI. of 1859, for providing for the exercise of certain powers by the Governor General during his absence from his Council. Expired.

MADRAS.—PORT-DUES.

ACT No. XIX. OF 1860.

[*Received the assent of the G. G. on the* 1*st May*, 1860.

Recites expediency of making Port-dues recoverable in any other port, if not paid in port where due.

1. Collector of port where fees become due may, if not paid, send an account to any other port, and require Collector there to realise them.

2. Master evading payment of Port-dues to be liable to a penalty, and certificate of Collector to be proof of evasion: leaving port by stress of weather to excuse from the penalty.

3. This Act to be read as part of Act XXII., 1855.

4. Modifies Act VII., 1858, s. 3. Exempts from Port-dues vessels entering and departing within 48 hours, and reduces Port-dues by half on vessels remaining only seven days.

An Act to amend Act XXII. of 1855 (for the regulation of Ports and Port-dues), and Act VII. of 1858 (for the levy of Port-dues at Ports within the Presidency of Fort St. George).

Preamble.

Whereas it is expedient that Port-dues, fees, and charges leviable under Section XLIX. of Act XXII. of 1855, if not paid in the Port in which any such dues, fees, or charges, may under the said Act have become due and payable, shall be recoverable in any Port in British India by the Collector of Customs or other Officer authorized to collect such Port-dues, fees, and charges, in any such Port, and that in certain cases Vessels shall be exempt from such dues, fees, and charges, it is enacted as follows:

Port-dues, &c., payable in one Port recoverable by Collector at any other Port.

I. If the Master of any Vessel in respect of which any Port-dues, fees, or charges shall be payable under the said Act, shall cause such Vessel to leave any Port without having discharged such dues, fees, or charges, it shall be lawful for the Collector of Customs or other Officer authorized to collect the same to require in writing the Collector of Customs or other Officer as aforesaid, in any other Port in British India to which such Vessel may proceed or in which she may be, to levy such dues, fees, or charges; and

every Collector or other Officer to whom such requisition shall be directed shall proceed to levy such dues, fees, or charges in the manner prescribed in Section XLIX. of the said Act; and a certificate purporting to be made and signed by the Collector of Customs or other Officer as aforesaid of the Port where the Port-dues, fees, or charges became payable, stating the amount so payable, shall be sufficient *primâ facie* proof of such amount in any proceeding under the said Section, and also (in case the amount payable is disputed) in any subsequent proceeding under Section LIX. of the said Act.

Penalty for evading payment of Port-dues, &c.

II. If the Master of any such Vessel shall evade the payment of any Port-dues, fees, or charges payable under the said Act, he shall be liable on conviction to a penalty not exceeding five times the amount so payable. In any proceeding before a Magistrate for the adjudication of the said penalty, any such certificate as is mentioned in Section I. of this Act, stating that the Master has evaded such payment, shall be sufficient *primâ facie* proof of the evasion, unless the Master shall show to the satisfaction of the Magistrate that the departure of the Vessel without having discharged the dues, fees, or charges payable was caused by stress of weather or that there was lawful or reasonable ground for such departure.

Construction of Act.

III. This Act shall be read with and taken as a part of the said Act XXII. of 1855, save that any Magistrate having jurisdiction under the said Act in any Port, River, or Channel to which the Vessel may proceed or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this Act.

No Port-due on Vessels leaving any Port mentioned in Act VII. of 1858 within 48 hours without discharging or taking in cargo.

IV. Section III. of Act. VII. of 1858 is modified as follows (that is to say):—

Vessels entering any of the Ports in the Schedule to the said Act mentioned, and departing from such Ports within forty-eight hours without discharging or taking in any cargo or passenger therein, shall not be charged with any Port-due; and Vessels so entering and departing as aforesaid within seven days shall be charged with one half only of the Port-dues leviable under the said Act.

Port-due on Vessels leaving as aforesaid within seven days.

SIR JAMSETJEE JEJEEBHOY.

ACT. NO. XX. OF 1860.

[*Received the assent of the G. G. on the 1st May,* 1860.

Recites the previous sanction of H. M. to the settlement of certain specified estates on the heir of Sir Jamsetjee Jejeebhoy, by Act of the Legislative Council, according to his will.

1. Constitutes certain Government officers a Corporation and Trustees for the purposes of the settlement.

2. The present Baronet and all future heirs to the title to take the name Sir J. J. in lieu of any other, and that name to descend with the Baronetcy.

3. Company's Paper producing not less than a Lac of Rupees per annum to be transferred to the Trustees incorporate, for the profit of the Baronet present and future, with power to the Baronet on failure of male heirs to assign, &c., the same.

4. In case of minority of the heir to the Baronetcy, the Trustees are to apply the income to his maintenance, education and benefit.

5. Settles Mazagon Castle in the some manner as the Company's Paper, subject to alienation on failure of male heirs.

6. Provides for the contingency of the heir male on attaining 21 years of age, refusing to use the name and title, or discontinuing for six months to use it, and directs the suspension of the uses, and declares them in favor of the next heir male of the first Baronet, and in default of heir male, heirs general.

7, 8. Empowers the Baronet for the time being to settle in marriage with one or more an income not exceeding 10,000 Rs. on any one wife, or (8) 20,000 Rs. on all together.

9, 10. Mazagon Castle not to be subject to Dower; and (10) all alienations of it void, except on contingency of failure of male heir as provided for in ss. 3 and 5.

11. Provides for contingency of the cessation of the offices to which the corporate functions are attached, and empowers the G. in C. to appoint new incorporate Trustees.

12. Gives the Trustees indemnity against losses from specified causes.

13. Saves the rights of H. M., if any, on Mazagon Castle.

An Act for settling Promissory Notes of the Government of India producing an annual income of one lac of rupees and a Mansion-house and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body by her present Majesty Queen Victoria, and for other purposes connected therewith.

Preamble.
Patent of Baronetcy.

Whereas by Letters Patent of Her Majesty Queen Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, dated at Westminster on or about the Sixth day of August, in the Twenty-first year of her Reign, and by Warrant under the Queen's sign-manual, her said Majesty made known that she, of her special grace, certain knowledge, and mere motion had erected, appointed, and created Sir Jamsetjee Jejeebhoy, then of Bombay, Knight, but since deceased (a man eminent for family inheritance, estate, and integrity of manners), to and into the dignity, state, and degree of a Baronet, and him, the said Sir Jamsetjee Jejeebhoy for Her Majesty, her heirs, and successors, she did erect, appoint, constitute, and create a Baronet, by the said Letters Patent, to hold to him and the heirs male of his body, lawfully begotten and to be begotten, for ever:

Proposed settlement in support of dignity.

And whereas, in fulfilment of an engagement in that behalf made with Her Majesty's Government, during the lifetime of the said Sir Jamsetjee Jejeebhoy, deceased, the said Sir Jamsetjee Jejeebhoy was desirous of settling in perpetuity such property on himself and the heirs male of his body who might succeed to the said Baronetcy, as should be adequate to support the dignity of the title conferred on him and them as aforesaid:

Of Mansion and other hereditaments.

And whereas the said Sir Jamsetjee Jejeebhoy was seised of a Mansion-house and hereditaments situate in the Island of Bombay called Mazagon Castle, and had an absolute estate of inheritance therein, and was desirous, in fulfilment of the aforesaid engagement, of settling

And of Government Promissory Notes.

Promissory Notes of the Government of India producing an annual income of one lac of Rupees and the said Mansion-house and hereditaments, to the uses, upon the trusts, and for the purposes hereinafter limited and declared, concerning the same respectively:

Desire of first Baronet that his successors should take his names.

And whereas the said Sir Jamsetjee Jeejebhoy was also desirous that the heirs male of his body to whom the said title and dignity of Baronet should descend, should take and bear the names of "Jamsetjee Jejeebhoy" in lieu of any other name or names

whatever which they respectively might bear at the time of such descent on them respectively; and he was also desirous that the Revenue Commissioner for the Northern division of the Presidency of Bombay, the Accountant General, and the Sub-Treasurer at Bombay for the time being should be Trustees of the aforesaid Promissory Notes, and be likewise the Trustees for carrying into execution the general purposes and powers of this Act, with relation to the same securities, and also with relation to the same Mansion-house and hereditaments:

And whereas the said Sir Jamsetjee Jejeebhoy departed this life on the 14th of April, 1859, before the aforesaid engagement with Her Majesty's Government was carried out on his part, and by his will dated the 9th of April, 1853, duly signed and executed by him, gave and devised the residue of his estate, houses, lands, securities, moneys, and effects to and amongst his sons Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, and appointed his wife Avaboye and his said three sons, the Executrix and Executors of his said will, and the said will has since been duly proved by the said Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee alone; and whereas on the death of the said Sir Jamsetjee Jejeebhoy the said title or dignity of Baronet, created by Her Majesty's said Letters Patent, devolved on and became and is now vested in the said Cursetjee Jamsetjee, as the eldest son and heir male of the body of the said Sir Jamsetjee Jejeebhoy, deceased:

And whereas the said Cursetjee Jamsetjee, the second and present Baronet, Rustomjee Jamsetjee, and Sorabjee Jamsetjee, as the sons, Residuary Legatees, and Executors of the said Sir Jamsetjee Jejeebhoy, deceased, and the said Avaboye, now the Dowager Lady Jejeebhoy, as executrix of the said Sir Jamsetjee Jejeebhoy, deceased, in fulfilment of the engagement so as aforesaid entered into by the said Sir Jamsetjee Jejeebhoy, deceased, with Her Majesty's Government, are desirous of settling the said Government Promissory Notes, and the said Mansion-house and hereditaments, so as aforesaid agreed to be settled by the said Sir Jamsetjee Jejeebhoy, deceased, for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts, and for the purposes hereinafter limited and declared concerning the same respectively: And whereas the said Dowager Lady Jejeebhoy

is desirous that the said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances shall be released, exonerated, and discharged from her right or title (if any) to dower or thirds, and every other right, interest, or estate whatsoever which she, the said Dowager Lady Jejeebhoy, may or might have or claim to have in the said premises under any custom or law of the Parsees, or otherwise howsoever;

And whereas the aforesaid purposes cannot be effected without this Act of the Legislative Council of India, it is enacted as follows (the sanction of Her Majesty having been previously obtained and signified in pursuance of an Act passed in the seventeenth year of the reign of her said Majesty entitled "An Act to provide for the Government of India"):

The Revenue Commissioner, Northern Division, the Accountant General, and the Sub-Treasurer of Bombay to be a Corporation for execution of trusts of this Act.

I. The Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant General, and the Sub-Treasurer at Bombay shall, for the purposes of this Act, be a Corporation, and such Revenue Commissioner, Accountant General, and Sub-Treasurer, shall be, and they are hereby constituted, as such corporation, the Trustees for executing the powers and purposes of this Act, and all the powers hereby vested in such Revenue Commissioner, Accountant General and Sub-Treasurer as Trustees for the purposes of this Act shall be exercised by the persons for the time being acting as such Revenue Commissioner, Accountant General, and Sub-Treasurer.

The present and all future Baronets to take names of first Baronet.

II. The present Baronet and all other the heirs male of the body of the said first Baronet to whom the said title and dignity shall descend, pursuant to the limitation of the Patent whereby the said dignity is granted, shall take upon themselves respectively the names of "Jamsetjee Jejeebhoy" in lieu and in the place of any other name or names whatever, and the present Baronet and all such other heirs male of the first Baronet severally and successively shall be called by the names of "Jamsetjee Jejeebhoy," and by those names shall name, style, and write themselves respectively upon all occasions whatsoever.

III. Immediately from and after the passing of this Act, Promissory Notes of the Government of India producing an annual income of not less than one lac of Rupees shall be transferred into the name of the said Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same (that is say): upon trust, if the same should be discharged by the Government of India, to invest the said sum in or on any stocks, funds, or securities of the Government of the United Kingdom of Great Britain and Ireland or of the Government of India, and in like manner as often as the same shall become necessary, to alter, vary, and change such stocks, funds, and securities for others of the same or like nature, and upon further trust, from time to time to pay and apply the dividends, interest, and annual income of the said stocks, funds, and securities unto and for the benefit of the present Baronet, and the person who, as heir male of the body of the said first Baronet, shall, for the time being, have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary, and upon failure and in default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend, upon trust for the present Baronet, his executors, administrators, and assigns, which ultimate remainder or reversion, it shall be lawful for the present Baronet, his executors, administrators, and assigns, at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to assign, transfer, bequeath, and dispose of by deed or will, or other assurance or assurances.

Government Promissory Notes producing an annual income of one Lac vested in Trustees.

On trust to re-invest, if paid off.

And to pay income to the Baronet for the time being.

With ultimate trust for second Baronet, his executors, administrators, and assigns and power to dispose thereof.

IV. The Trustees for the time being acting in the execution of the trusts hereby created during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent, shall pay and apply for and towards the

Powers to Trustees to invest the surplus annual interest and income of the Trust Fund and premises during the minority of any Baronet, &c.

maintenance, education, and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends, and income of the said Trust Funds and Premises as such Trustees shall, in their discretion, think proper, and shall, from time to time, invest the residue of the said annual dividends, interest, and income of the said Trust Funds and Premises in and upon the stock, funds, and securities of the Government of the United Kingdom of Great Britain and Ireland, or of the Government of India, and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him or as he shall direct, and for his absolute benefit, the said investments and all accumulations thereof.

Settlement of Mansion, &c., in support of Baronetcy.

V. The Mansion-house and other hereditaments called Mazagon Castle, situate in the Island of Bombay, with their rights, members, and appurtenances, of which the said first Baronet was seised to him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited to the uses following (that is to say): to the use of the present Baronet, and the heirs male of the body of the said first Baronet who may succeed to the title of Baronet, conferred by the said Letters Patent as aforesaid, and upon failure and default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend as aforesaid, to the use of the present Baronet, his heirs, and assigns for ever, which ultimate remainder or reversion it shall be lawful for him and his heirs and assigns, at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to grant, convey, devise, and dispose of by deed or will, or by any other assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of by Parsee inhabitants of British India.

With ultimate remainder to the second Baronet in fee and power to dispose thereof.

Provision in case of refusal or discontinuance of names of first Baronet.

VI. Provided always that in case any person who for the time being shall be the heir male of the body of the said first Baronet to whom the said title of Baronet shall have descended, shall, for the space of one whole year after he shall, by virtue of this Act, become

entitled to the dividends, interest, and income of the said stocks, funds, and securities, or to the possession or receipt of the rents, and profits of the said hereditaments, or being then under age shall, for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Jamsetjee Jejeebhoy," as hereinbefore enacted, or in case any such person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest of the person who shall so refuse or neglect to use, or having used shall so discontinue to use the said names of "Jamsetjee Jejeebhoy," shall, during the remainder of his respective natural life, be suspended; and that, during any and every such suspension, the dividends, interest, and income of the said stocks, funds, and securities and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who, as heir male of the body of the first Baronet, would have succeeded to and been in the enjoyment of the title of Baronet conferred by the said Letters Patent in case the person so refusing or neglecting to use or discontinuing to use the said names of "Jamsetjee Jejeebhoy" had departed this life, but if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had been a total failure of issue male of the first Baronet entitled to the said dignity of Baronet.

Baronet in possession may jointure.

VII. It shall be lawful for the present Baronet and for any person upon whom the said title of Baronet shall, from time to time, descend, when in the actual enjoyment of the said title, and who shall not refuse, neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Jamsetjee Jejeebhoy," as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings, with or without power of revocation, to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint unto any woman or women

whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights, any annuity or yearly sum not exceeding the sum of Company's Rupees ten thousand, clear of all taxes, charges, and deductions whatsoever, to commence and take effect immediately after the decease of the person limiting or appointing the same and to be issuing and payable out of the dividends, interest, and annual income of the said stocks, funds, and securities, and to be paid and payable by equal half-yearly payments on the Thirtieth day of June and the Thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum, provided always, that in case any person on whom such title shall descend, shall have refused or neglected to use the names of "Jamsetjee Jejeebhoy," or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him shall be and become inoperative and invalid, and no such annuity hereby created or appointed shall take effect or be payable or chargeable on the said stocks, funds, and securities notwithstanding any such limitation or appointment.

Limit of aggregate of jointure payable contemporaneously.

VIII. Provided always that the said dividends, interest, and annual income of the said stocks, funds, and securities shall not at one and the same time be subject to the payment of more than the yearly sum of Company's Rupees twenty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of, or under the same power, the said dividends, interest, and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Company's Rupees twenty thousand, the yearly sum which shall occasion such excess, or such part thereof as shall occasion the same, shall during the time of such excess abate and not be payable.

Mansion-house and hereditaments not to be subject to dower.

IX. The said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances, shall not be subject to dower of

the said Dowager Lady Jejeebhoy, the widow of the first Baronet, or of the wife or wives of the present Baronet, or of any of the persons who may successively be entitled thereto under the aforesaid limitations, or to any other right, interest, or estate whatsoever, which the said Dowager Lady Jejeebhoy or any such wife or wives may or might have or claim to have in the said Mansion-house and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

Alienation prohibited during the Baronetcy.

X. Subject to the enactments contained in the third and fifth Sections, with respect to the ultimate remainders or reversions, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the first Baronet to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the present Baronet nor any of the heirs male of the body of the first Baronet in whose favor trusts are hereinbefore declared of the dividends, interest, and annual income of the said stocks, funds, and securities, or to whom the said Mansion-house and hereditaments called Mazagon Castle shall stand limited under this Act, shall transfer, dispose of, alien, convey, charge, or encumber the said stocks, funds, and securities, or any part thereof, or the dividends, interest, and annual income thereof, or of any part thereof, or the said Mansion-house or hereditaments or any part thereof, for any greater or larger estate, interest, or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Jamsetjee Jejeebhoy," nor shall have any power to discontinue or bar the estate of any person or persons for whose benefit trusts are declared by this Act of the dividends, interest, and annual income of the said stocks, funds, and securities, or to or upon whom the said Mansion-house and hereditaments and the rents and profits thereof are by this Act limited to come or devolve in any manner whatsoever either by default or otherwise, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any greater

estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Jamsetjee Jejeebhoy," and every attempt to make any conveyance, assignment, or assurance contrary to the intention of this Act shall be, and is hereby declared and enacted to be, void.

Power to the Governor in Council of Bombay to appoint persons holding Government Offices, as Trustees under this Act, in the event of the Offices of Revenue Commissioners, Accountant General and Sub-Treasurer, or any of them being abolished.

XI. If at any time hereafter the said Offices of Revenue Commissioner for the Northern Division of the Presidency of Bombay, Accountant General, and Sub-Treasurer at Bombay, or any or either of them, shall be abolished or cease to exist, it shall be lawful to and for the Governor in Council of Bombay for the time being, with the consent and approbation of the person for the time being in the actual enjoyment of the said title of Baronet, and using the said names of "Jamsetjee Jejeebhoy" and having attained the age of twenty-one years, and if there shall not be any such person, then without the consent or approbation of any person or persons whomsoever, to nominate and appoint any other person or persons holding or filling any other Public Government Offices or Office at Bombay, to be and act as Trustees or Trustee in the execution of the trusts created by this Act, and upon such nomination and appointment the said Trust Funds and premises shall by force of this Act forthwith vest in the persons or person so nominated and appointed Trustees or Trustee as lastly mentioned, together with the then continuing Trustees or Trustee, but if there shall be no such continuing Trustees or Trustee then in new Trustees only upon and for the trusts and purposes hereby created and declared, and when and so often as any such nomination and appointment shall be made, such new Trustee or Trustees jointly with such continuing Trustees or Trustee, or such new Trustees only, as the case may be, shall be, and they are hereby constituted a Corporation for executing the powers and purposes of this Act.

Trustees' indemnity.

XII. The Trustees for the time being, acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall be charged and chargeable for such moneys only as he and they respectively shall actually receive by virtue of the trusts, powers, and provisions of this Act, notwithstanding

his, their, or any of their giving or signing, or joining in giving or signing any receipt or receipts for the sake of conformity; and he and they respectively shall not be answerable or accountable for any banker or broker, agent or other person with whom or in whose hands any part of the said trust money shall or may be deposited or lodged for safe custody, or otherwise in the execution of any of the trusts, powers, and provisions hereinbefore created or contained; and the Trustees for the time being acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall not be answerable or accountable for the insufficiency or deficiency of any security or securities, stocks or funds in or upon which the said trust money or any part thereof shall be placed out or invested, nor for any misfortune, loss, or damage which may happen in the execution of the aforesaid trusts, powers, and provisions, or in relation thereto; and it shall be lawful for him and them respectively, with or out of the money which shall come to his or their respective hands by virtue of the trusts and provisions of this Act, to retain and re-imburse to himself and themselves respectively all costs, damages, and expenses which he and they respectively shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions, or in relation thereto.

General Saving.

XIII. Saving always to the Queen's Most Excellent Majesty, her heirs and successors, and to all and every other person and persons, bodies politic and corporate, and his, her, and their respective heirs, successors, executors, and administators and every of them (other than and except the said Sir Jamsetjee Jejeebhoy, deceased, his devisees, heirs, and assigns), all such estate, right, title, interest, claim, and demand whatsoever of, in, to, out of, or upon the said Mansion-house and hereditaments called Mazagon Castle, or any part or parts thereof, as they, every or any of them, had, before the passing of this Act, and would, could, or might have had, held, or enjoyed in case this Act had not been passed.

REGISTRATION OF SOCIETIES.

Act No. XXI. of 1860.

[*Received the assent of the G. G. on the 21st May,* 1860.

Recites expediency of improving the legal condition of Societies for the promotion of literature, &c.

1. Empowers any seven persons associated for literary, scientific or charitable purpose to register and thereby become a Society under this Act.

2, 3, 4. Prescribes the memorandum to be registered; and (3) Registrar of Joint Stock Companies to certify the registration; and (4) a new list of names, &c., of Members, &c., to be filed annually.

5, 6, 7, 8. Vests the property of the Society in the governing body for purpose of Proceedings Civil and Criminal; and (6) entitles society to sue and be sued in the name of its President, &c.; and (7) no suit to abate by reason of change of officers; and (8) judgment to be recovered or enforced only for or against the Society.

9. Gives a remedy at law for penalty under Bye-Law and empowers Societies to make Bye-Laws.

10. Empowers Society to sue Members, and provides a remedy for defendant in case action fails.

11. Empowers Society to prosecute Members for criminal offences against the Society.

12, 13, 14. Empowers registered Society to alter its purposes, to amalgamate with other Society at Special Meeting; and (13) to dissolve by resolution of Members, &c., but consent of Government necessary if Government be a Member; and (14) on dissolution, its property to be applied in satisfaction of debts, and surplus given to some other Society, except in case of Societies in nature of Joint Stock Companies.

15. Subscribers, if not in arrear, to be considered Members.

16. The governing body to be those appointed under the Rules.

17, 18. Entitles Societies for literary, &c., purposes registered under Act XLIII., 1850, and other such Societies not registered to be registered under this Act; and (18) as to how such registration is to be effected.

19. Entitles any person to inspect all registered documents on payment of fee.

20. Names and describes the Societies which may avail themselves of the Act.

An Act for the Registration of Literary, Scientific, and Charitable Societies.

Preamble.

Whereas it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes, it is enacted as follows:

Societies formed by Memorandum of Association and Registration.

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX. of this Act, may, by subscribing their names to a Memorandum of Association, and filing the same with the Registrar of Joint Stock Companies, under Act XIX. of 1857, form themselves into a Society under this Act. [Construed by Act X., 1866, s. 230.]

Memorandum of Association.

II. The Memorandum of Association shall contain the following things (that is to say):—

The name of the Society.

The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of Rules and Regulations of the Society, certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum of Association.

Registration.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees or such smaller fee as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Fees.

Annual list of managing body to be filed.

IV. Once in every year, on or before the 12th day succeeding the day on which, according to the Rules of the Society, the Annual General Meeting of the Society is held, or if the Rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Property of Society how to be vested.

V. The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for

the time being, in the governing body of such Society, and in all proceedings, Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

How suits by and against Societies to be brought.

VI. Every Society Registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman, or Principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

Suits not to abate.

VII. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

How judgment to be enforced against.

VIII. If a judgment shall be recovered against the person or Officer named on behalf of the Society, such judgment shall not be put in force against the property moveable or immoveable, or against the body of such person or Officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

Society may make Bye-law to be enforced.

IX. Whenever by any Bye-law, duly made in accordance with the Rules and Regulations of the Society, or if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any

pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate, as the governing body thereof shall deem expedient.

Members liable to be sued as strangers.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay, or who shall possess himself of or detain any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the Officer in whose name the suit shall be brought, or from the Society, and in the latter case, shall have process against the property of the said Society in the manner above described.

Members guilty of offences punishable as strangers.

XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

Societies enabled to alter, extend, or abridge their purposes.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting

for the consideration thereof according to the Regulations of the Society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members delivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

Provision for the dissolution of Societies and adjustment of their affairs.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims, and liabilities, according to the Rules of the said Society applicable thereto, if any, and, if not, then as the governing body shall find expedient; provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the Principal Court of original Civil Jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided that no Society shall be dissolved unless three-fifths of the Members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a General Meeting convened for the purpose. Provided that, whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

Upon a dissolution, no Member to receive profit.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default

thereof, by such Court as aforesaid: provided however that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Stock Company.

Proviso for Joint Stock Companies.

XV. For the purposes of this Act a Member of a Society shall be a person who, having been admitted therein according to the Rules and Regulations thereof, shall have paid a subscription, or shall have signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

Who is a Member.

XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

The governing body defined.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII. of 1850, or any such Society established and constituted previously to the passing of this Act, but not registered under the said Act XLIII. of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso that no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the Members present personally, or by proxy, at some General Meeting convened for that purpose by the governing body. In the case of a Company or Society registered under Act XLIII. of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society, it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

Registration of Societies formed before this Act.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock

Such Societies to file Memorandum, &c., with Registrar of Joint Stock Companies.

Companies under Act XIX. of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses, and occupations of the governing body, together with a copy of the Rules and Regulations of the Society certified as provided in Section II., and a copy of the report of the Proceedings of the General Meeting at which the registration was resolved on. [Construed by Act X., 1866, s. 230.]

Inspection of documents.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

Certified copies.

To what Societies the Act shall apply.

XX. The following Societies may be registered under this Act, Charitable Societies, the Military Orphan Funds or Societies establishes at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or Public Museums and Galleries of Paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

Extended by Act XXX., 1861.

CHITTAGONG.

Act No. XXII. of 1860.

[*Received the assent of the G. G. on the* 21*st May*, 1860.

Recites expediency of making the Hilly and Forest Tracts on eastern side of Chittagong Non-regulation Districts.

1. Tracts of country specified in Schedule to cease to be under regulation Courts, &c.

2. Administration of Civil and Criminal judicature as regards Courts as well of appeal as of First Instance to be provided for by Lt.-G. of Bengal.

3. Empowers the Lt.-G. to direct Appeals to go either to Judge of Chittagong or to S. and N. Courts and B. of Revenue.

4. Lt.-G. may direct any officer to refer his criminal sentences for confirmation to the Sudder, and no sentence of death to be carried out until confirmed by Sudder.

5. Empowers Lt.-G. to direct to what ports and to what places for transportation persons sentenced to imprisonment and transportation shall go.

6. Questions as to boundary of any place falling within the Scheduled Tracts shall be decided by the Commissioner of Revenue for Chittagong.

7. Act to take effect from date fixed by Lt.-G., and notification to be made, &c.

Schedule.

An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.

Preamble.

Whereas it is expedient to remove the hilly and forest tracts of country situated on the Eastern border of the District of Chittagong from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Officers of that District, under the general Regulations and Acts of the Government, it is enacted as follows:

Certain tracts removed from the operation of the general Regulations and Acts.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

Administration of justice and collection of revenue vested in Officers subject to the control of the Lieutenant-Governor of Bengal.

II. The administration of Civil and Criminal justice and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the

Lieutenant-Governor of Bengal may for the purpose of tribunals of first instance or of reference and appeal appoint, and the Officer or Officers so appointed shall, in the matter of the administration and superintendance aforesaid, be subject to the direction and control of the Lieutenant-Governor of Bengal, and be guided by such instructions as the Lieutenant-Governor of Bengal may from time to time issue.

Appeals.

III. It shall be lawful for the Lieutenant-Governor of Bengal to direct that an appeal may be heard in any of the matters described in the last preceding Section by the Civil and Sessions Judge of Chittagong or the Commissioner of Revenue for that District or by the Sudder Dewanny and Nizamut Adawlut, or by the Board of Revenue, and to declare in what cases the order made by any Officer or Court empowered by the Lieutenant-Governor to dispose of any of the matters aforesaid, shall be final.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of Bengal to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmatoin of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwah of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

V. Any person liable to be imprisoned in any Civil or Criminal Gaol or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Gaol or transported to any place which the Lieutenant-Governor of Bengal may direct.

Questions of disputed boundary to be determined by Commissioner of Chittagong.

VI. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of Revenue for the District of

Chittagong to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Commencement of Act.

VII. This Act shall take effect from such date as shall be fixed by the Lieutenant-Governor of Bengal, and notification thereof shall be published in the Office of the Commissioner of Revenue and the Courts of the Civil and Sessions Judge and of the Magistrate of Chittagong, and in such other manner as the Lieutenant-Governor may direct.

SCHEDULE. This Schedule is repealed by Act IV., 1863, of the Bengal Council, and a new Schedule substituted.

BENGAL.—ABKAREE REVENUE.

ACT NO. XXIII. OF 1860.

[*Received the assent of the G. G. on the 23rd May*, 1860.

Recites expediency of increasing the duty on distillery-spirits.

1. Repeals Act XXI., 1856, s. 9, also ss. 7 and 15 partially, and establishes duty of three rupees.

2. Spirits may be removed from distillery for export to any Indian port except Free port under Bond for payment of duty if not exported, &c.

3. Empowers Magistrates to commit to prison on default of payment of fine or forfeiture.

4. Indemnifies officers for collecting the increased duty, &c., from the 21st January, 1860.

5. Act to be read with Act XXI., 1856.

Form of Bond.

An Act to amend Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).

Preamble.

Whereas it is expedient to increase the rate of duty levied on spirits manufactured at distilleries worked according to the English method, and otherwise to amend Act XXI., of 1856, it is enacted as follows:

Sections repealed.

I. Section IX., Act XXI. of 1856, so much of Section VII. of the said Act as prescribes that the duty leviable on spirits manufactured at distilleries

worked according to the English method for the Imperial gallon of the strength of London proof shall be one rupee, and so much of Section XV. of the said Act as prohibits spirits under bond from being exported or shipped to any Port in India without payment of duty, are hereby repealed. On and after the 21st January, 1860, it shall be lawful for the Government to levy the duty as aforesaid at the rate of three rupees, and the duty shall be rateably increased as the strength exceeds London proof.

Rate of duty to be levied on spirits manufactured according to the English method.

II. Repealed by Act VI., 1863.

III. When any person is sentenced to pay any fine of forfeiture under the said Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any term not exceeding two months when the amount of the fine or forfeiture shall not exceed fifty rupees, or for any term not exceeding four months when the amount of the fine or forfeiture shall not exceed two hundred rupees, or for any term not exceeding six months when the amount of the fine or forfeiture shall exceed two hundred rupees; but in any case the imprisonment shall determine upon the payment of the fine or forfeiture adjudged.

Imprisonment in default of payment of fine.

IV. Of temporary operation and defunct.

V. This Act and Act XXI. of 1856, as hereby amended, shall be read as one Act.

Construction of Act.

Form of Bond under Section II.

Schedule H. of Act VI., 1863, gives a new Form of Bond.

SCOTCH CHURCH MARRIAGES.

Act No. XXIV. of 1860.

[*Received the assent of the G. G. on the 23rd May*, 1860.

Repeals so much of the Act of Parliament, 58 G. 3, c 84, as requires that the marriage ceremony should be performed by Government Chaplains.

An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland.

Superseded and comprised in Act V., 1865, s. 6.

BASSEIN.—PORT-DUES.

ACT No. XXV. OF 1860.

[*Received the assent of the G. G. on 23rd May*, 1860.

Recites necessity of fixing Port-dues for Bassein.

1, 2, 3, 4. Fixes Port-dues at 4 annas per ton on tonnage above 10 tons of sea-going vessels; and (2) at half rate for vessels driven into port by weather or damage and only unshipping cargo for repairs; and (3) exempts vessels from the port driven back by some causes; and (4) no vessel to be chargeable more than once in 60 days.

5. Act to commence from 1st August; and all other Port-dues to cease.

6. Act to be read with Act XXII., 1855.

An Act for the levy of Port-dues in the Port of Bassein.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Bassein, in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.

I. A Port-due at a rate not exceeding the rate of four annas per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the said Port.

Rate of Port-due on vessels compelled by stress of weather to enter Port.

II. When any vessel enters the said Port, being driven in by stress of weather, or in consequence of having sustained any damage or for any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter Port.

III. Provided that, when any vessel having left the said Port is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay the Port-due oftener than once in sixty days.

IV. No vessel shall be required to pay the Port-due chargeable under this Act oftener than once in sixty days.

Commencement of Act.

V. This Act shall commence and have effect from and after the 1st day of August, 1860; and the Local Government shall, on or before that date,

pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Calcutta Gazette," the rates at which Port-dues shall be levied in the said Port, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due shall be levied at the said Port except under the authority of Act XXII. of 1855, and of this Act.

Rates of Port-dues to be published.

No Port-due to be levied except under Act.

VI. This Act shall be read with and taken as part of Act XXII. of 1855.

Act to be read as part of Act XXII. of 1855.

ADMINISTRATOR GENERAL.

Act No. XXVI. of 1860.

[*Received the assent of the G. G. on the* 31*st May*, 1860.

Recites expediency of amending Act VIII., 1855.

1. A. G., on requisition of Military Secretary, to administer estates not exceeding 500 rs. of Officers, Soldiers, &c., without taking out letters of administration.

2. In cases within Act VIII., 1855, s. 48, A. G. or on his default creditor may administer estate under certificate, the creditor giving security if required by A. G.

3. Empowers Government to appoint person to officiate for person officiating for A. G. if the latter obtains leave of absence.

An Act to amend Act VIII. of 1855 (relating to the office and duties of Administrator General).

Repealed by Act XXIV., 1867, "The Administrator General's Act, 1867," and consequently inoperative.

COLLECTION OF DEBTS ON SUCCESSIONS.

Act No. XXVII. of 1860.

[*Received the assent of the G. G. on the* 25*th of June*, 1860.

Recites expediency of consolidating Acts providing for the security of persons paying debts to representatives of Hindoos, &c.

1. Repeals Act XXI., 1841, and VIII., 1842, partially; Act X., 1851, and VIII., 1854.

2. No debtor of deceased person to be compelled to pay debt except to person having certificate under this Act or probate or letters of administration, unless payment is withheld from fraud or without ground of doubt as to person entitled.

3, 4. Certificate to be granted by Court of District in which deceased resided, or if no fixed residence, in which property may be found; and (4) certificate to be conclusive as against debtors of deceased.

5. Court may require security from persons to whom certificate is granted.

6. The granting of a Certificate may be stayed by an appeal to the Sudder, which Court may grant fresh certificate, which shall not prejudice payments made under former one without notice.

7. Certificate to operate throughout the Presidency except as after excepted.

8. The Certificate not to pass property on Government Securities or Bank or other shares unless expressly described in Certificate.

9. In cases of disputed right to Government Securities Certificate to be granted to trustee appointed by Government, and Certificate to specify the persons appearing to be entitled, but not to prejudice other persons who may proceed by regular suit.

10. If disputes among rival claimants are not settled in two years from date of Certificate, trustee may divide the securities rateably amongst the parties appearing entitled, &c.

11, 12. Certificate to trustee to annul previous Certificate; but (12) payments made under old Certificate without notice to be valid.

13, 14, 15, 16. Certificate granted after probate or letters of administration to be invalid; except (14) to protect payments made without notice; and (15) the converse, probate, and letters not to be valid as respects recovery of debts covered by Certificate; except (16) to protect payment made without notice.

17. Curator of specified kind under Act XIX., 1841, to have only same powers as Certificated persons under this Act, saving an indemnity to persons who have paid curators beyond under specified circumstances.

18. Limits the effect of probates and letters of administration granted by Supreme Court to same effect as Certificates under this Act, except so far as in this Act provided. (Query, where the provision?)

19, 20. Certificate of administration granted in foreign British State by British Agent to have same effect as regards residents as other Certificate under this Act; and (20) as regards Government securities shall operate throughout India.

21, 22. Certificate may be extended to operate on Government securities and Bank shares; and (22) on extension security may be required.

23. Act not to extend to British subject's property.

24. Interpretation clause.

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

Preamble.

Whereas it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same, it is enacted as follows:

Acts repealed.

I. Act XX. of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*): so much of Act VIII. of 1842 as relates to the said Act XX. of 1841: Act X. of 1851 (*to amend Act XX. of* 1841, *for the administration of personal estate of deceased persons*): and Act VIII. of 1854 (*to explain and amend Act X. of* 1851 *and Act XX. of* 1841), are hereby repealed, except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

No debt recoverable without a certificate.

II. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate, to be obtained in manner hereinafter mentioned or of a probate, or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Certificate, how to be obtained.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence, then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

IV. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Effect of certificate.

V. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the moneys received by virtue of such certificate whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

Court may take security from Grantee of certificate.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District Court, grant a fresh certificate in suppression of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all moneys that may have been recovered under the first certificate from the person to whom the same may have been granted.

Sudder Court may suspend certificate granted by District Court, or direct further proceedings.

Sudder Court may grant fresh certificate in supression of the certificate granted by the District Court.

VII. Every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Local extent of power given by certificate.

VIII. If the estate of the deceased shall include any Government Securities or Bank-shares, or any shares in any public Company, the certificate may empower the person certified as aforesaid to

Government Securities, Bank-shares, and shares in Public Companies.

receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them: in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

Appointment of Trustee in case of disputed succession.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the Local Government to act as trustee under this Section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Local Government shall think fit.

Proviso.

Provided nevertheless that the right of any other person to recover the whole or any part of the moneys so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Appropriation if securities be not settled within two years.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted under the last preceding Section, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper Officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only

according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any Government Securities in dispute, or any part thereof, shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Proviso.

XI. Every certificate granted to the trustee appointed under Section IX. shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void, by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.

XIV. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration,

Certain payments under certificate granted after grant of probate or letters, protected.

shall be held good against claims under the probate or letters of administration so previously granted.

Probate or letters void after grant of certificate.

XV. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

Proviso.

Certain payments under probate or letters, granted after grant of certificate, protected.

XVI. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate, shall be held good against claims under such previous certificate.

Curators prohibited from exercising certain powers.

XVII. Curators appointed under Act XIX. of 1841, who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same, shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Effect of probates and letters granted to representatives of British subjects.

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act provided.

XIX. A certificate of administration granted by the British Representatives accredited to any Foreign Prince or State, shall, as regards the residents within the Territories of such Prince or States, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

Effect of certificates granted by British Representatives in Foreign States.

XX. Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British Territories in India, and have the same effect throughout the said Territories as a certificate granted under Section VII. of this Act has within the Presidency within which the same is granted.

Local extent of power given by such certificates.

XXI. Any Court or Officer authorised to grant a certificate may from time to time extend the same to any Government Security or Bank Share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank Share to which the certificate shall be extended had been originally specified therein.

Extension of certificate.

XXII. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

Security upon extension.

XXIII. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

Act not to apply to British subjects.

XXIV. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Interpretation.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include females.

Gender.

The word "District Court" shall mean the Principal Civil Court of original jurisdiction of a Zillah or District.

"District Court."

"Sudder Court."

The words "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in any part of the British Territories in India not subject to the control and superintendence of a Sudder Court.

Repealed by Act XXIV., 1867, "The Administrator General's Act, 1867," "except as to Hindoos, Mahometans and Buddhists, and persons exempted by the Indian Succession Act, 1865, s. 332, from the operation of such Act."

MADRAS.—BOUNDARY MARKS.

ACT No. XXVIII. OF 1860.

[*Received the assent of the G. G. on the 29th June*, 1860.

1. Repeals Act XX., 1855.

2. Empowers Collectors, &c., for prevention of disputes to fix boundaries of fields, &c., to require owners to clear jungle, and to set up boundary marks, &c.

3, 4. Empowers same officers to require owners of lands to register their rights and titles, &c.; and (4) to summon occupiers, &c., to attend them, &c., under penalty in case of default.

5, 6. Notice of survey to be served on owners or occupiers, &c., requiring them to clear boundaries, &c.; and (6) in default the survey officers may give orders for work to be done.

7. Dispenses with such notice when owners, &c., have signified their wish for boundary marks to be erected on part of Government.

8. Cost of setting up boundaries in unoccupied fields, &c., to be charged to Government.

9. Persons wilfully erasing, &c., boundary marks to be liable to fine.

10, 11, 12. Boundary disputes at desire of parties interested may be referred to arbitration; (11) arbitrators to be nominated by parties concerned, or in certain cases by officer; and, (12) if each side appoint an equal number, both are to appoint an additional one to make a majority.

13, 14, 15, 16. Settlement officer, &c., to define the matters referred and fix time for delivery of award, &c.; and (14) shall furnish arbitrators with information, &c., and (15) may enlarge time for making award; and (16) in case of death, &c., of person appointed, may appoint new one.

17, 18, 19, 20, 21. Award to be submitted to settlement officer under signature of arbitrators; and (18) on application of party may be modified or corrected; and (19) may be remitted for re-consideration on grounds specified; and (20) shall not be set aside except for misconduct or corruption of arbitrators; and (21) if not set aside, &c., settlement officer to pass decision according to award.

22, 23. In disputes relating to occupancy of ryots of Zemindary lands, the consent of Government officer necessary to reference to arbitrator; but (23) settlement officer not incompetent to be arbitrator.

24. Copy of decision under award to be filed in Civil Court.

25. In case parties do not refer dispute to arbitration or fail to attend on reference, the officer to make an *ex-parte* investigation, and record decision with grounds, subject to appeal by regular suit.

26. Proceedings ending by imposing fines to be subject to revisions, &c.

27. Fines to be carried to credit of Government.

28, 29. Gives settlement officers, &c., necessary powers to enter, examine, &c., lands, &c.; and (29) persons molesting, obstructing, &c., them to be liable to fine.

30. Empowers the G. in C. to invest subordinate officers, with power under this Act.

31. Defines and limits powers of Deputy Directors of Revenue settlement being Sub-Collectors and Joint Magistrates.

32. Extends R. 9, 1822 and 7, 1828, to servants of the Survey and Settlement Departments.

33. Extends 31st and 32nd Sections to cases not finally decided at passing of Act.

An Act for the establishment and maintenance of Boundary Marks, and for facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George.

Preamble.

Whereas it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of Boundary disputes and claims, it is enacted as follows:

Repeal of Act XX., 1855.

I. Act XX. of 1855 is hereby repealed.

Collector, &c., to fix boundaries of fields, &c., and to require owners or occupants to clear boundary line and form and maintain Boundary mark, &c.

II. It shall be lawful within the said Presidency for a Collector of land Revenue, or person exercising the powers of Collector, or for any Revenue Settlement Officer, and also for any other Officer appointed by the Government for the purpose, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land

revenue), to fix the boundaries of fields, holdings, estates, or villages, and to require the owner or occupant of the field, holding, or estate, or the head man (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form, and maintain boundary marks, of such materials, and in such number and manner, as may be determined by such Officer under the direction of the Board of Revenue, or of the Director of Revenue Settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate, or village.

Collector to call upon owners or occupants to register and produce title deeds before survey.

III. It shall further be lawful for such Officer aforesaid to call upon the owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title deeds, and other documents connected with their claims.

Penalty for owner, &c., refusing or failing to attend, and for any person making false statement, &c.

IV. Any occupant or owner of land or other persons whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such Officer aforesaid, shall refuse or fail to attend at the demarcation, measurement, or assessment of his field, holding, or estate, or for the determining and marking the village boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary—and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon to give any information in his power with respect to a boundary under enquiry—shall be liable, by order of such Officer aforesaid, to a fine not exceeding fifty Rupees, to be levied by warrant under the hand of the Officer imposing it, in the same manner as a fine imposed by a Magistrate for a misdemeanor, and with a like alternative of imprisonment in default, as defined in Act II. of 1839.

Service of notices on owners and occupants.

V. When a survey is in progress notices shall be served on the persons owning or occupying the fields, holdings, estates, or villages concerned,

requiring them to clear the boundaries, and to set up, form, or repair, or to render such aid and labor as may be necessary to form or repair under the supervision of the Government Officers, such boundary marks as may be required, within a reasonable time, and in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

In default of compliance, Officer may order erection or repair of necessary marks at the expense of the owners or occupants.

VI. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of the necessary Boundary marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, in such manner as such Officer aforesaid may consider just, and shall be levied in the same manner as arrears of land revenue.

Procedure when owners or occupants require erection of boundary marks at their expense.

VII. Whenever such warrant or occupants of any fields, villages, holdings, or estates, may generally signify their wish for the boundary marks to be erected on the part of Government and the cost to be charged to them, or where in arrangements for the demarcation of the general survey of a village, estate, talook, or district, it may appear to such Officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the Officers of Government, the Officer aforesaid may proceed, without the previous notice prescribed in Section V., to the clearing of boundaries, and the erection and repair of the boundary marks, and may recover the cost of the same, if unpaid, in the manner described in Section VI.

In the case of unoccupied fields, &c., cost to be charged to Government.

VIII. In the case of unoccupied fields, and of extensive hills and jungles in Government lands, the cost of marks for such fields, hills, and jungles, shall be charged to Government.

IX. Any person convicted before a Magistrate or person

Penalty for erasing, &c., marks—a portion of which to be paid to informer.

exercising Magisterial powers of wilfully and without lawful excuse erasing, altering, removing, or injuring any Boundary marks whatsoever, whether established under this Act or otherwise existing or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an Officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty Rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark; the fine to be levied in the mode prescribed above in Section IV. Provided always that a Magisterial Officer shall have power to impose a fine under this Clause only to the amount to which he is competent to fine in misdemeanours under his general powers.

Proviso.

Costs how to be recovered when offender is not known or unable to pay the fine.

Whenever it may not be possible to detect the person who erased, altered, removed, or injured such boundary or survey marks, the Officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the Ryots of the village in proportion to their land assessment, as he may consider just and equitable, the same to be levied in the manner prescribed above in Section VI.

Application for reference to arbitration.

X. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other Officer aforesaid either in person or by their agents specially authorized on their behalf, and the Settlement or other Officer aforesaid shall proceed to dispose of the case as hereafter provided.

Nomination and appointment of arbitrators.

XI. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are

desirous that the nomination shall be made by the Settlement or other Officer aforesaid, such Officer shall appoint the arbitrator or arbitrators.

Majority of arbitrators to rule the decision.

XII. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or, in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other Officer aforesaid—and in all matters the majority shall rule the decision.

Order of reference.

XIII. The Settlement or other Officer aforesaid shall, by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute which he or they may be required to determine, and shall fix such time as he may think reasonable for the delivery of the award, the time so fixed being specified in the order.

Arbitrators to be furnished with information.

XIV. When a reference is made to arbitration by an order of the Settlement or other Officer, such Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Summoning witnesses.

Extension of time for making award.

XV. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other Officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed

by the Settlement or such other Officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other Officer aforesaid superseding the arbitration and revoking the institution of the enquiry.

In case of death, incapacity, or refusal to act as arbitrators, others to be appointed instead.

XVI. If, in any case of reference to arbitration by an order of the Settlement or other Officer, the arbitrator or arbitrators shall die, or refuse, or become incapable to act, it shall be lawful for the Settlement or other Officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

Award how to be submitted to Settlement Officer.

XVII. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other Officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and other records, or authenticated copies thereof relating to the matter.

Settlement Officer may on application modify or correct an award in certain case.

XVIII. The Settlement or other Officer may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

In what cases Settlement Officer may remit the award or any of the matters referred to arbitration, for re-consideration.

XIX. In any of the following cases the Settlement or other Officer aforesaid shall have power to remit the award or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper (that is to say):—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

XX. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators. Any application to set aside an award shall be made within ten days after the same has been submitted to the Settlement or other Officer aforesaid.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

XXI. If the Settlement or other Officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other Officer as aforesaid shall have refused such application, the Settlement or other Officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act. In every case the decision given according to the award shall be final.

Boundary to be marked out according to award.

XXII. Where the claims and disputes relate to the occupancy of Ryots of Zemindary and Proprietary lands the consent in writing of the Settlement or other Officer aforesaid on behalf of Government and of the Zemindars or Proprietors interested, shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such Zemindary estate shall be determined as between the Zemindar or Proprietor on one part and the Government on the other, the Government being represented by the Collector, Settlement or other Officer aforesaid.

Reference to arbitration of claims and disputes regarding occupancy by Ryots of Zemindary lands, &c.

XXIII. The Settlement or other Officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

Settlement Officer not incompetent to act as arbitrator.

XXIV. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such Officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

A certified copy of every decision passed in accordance with the award, to be filed in the Civil Court.

Procedure when parties do not agree to refer their dispute to arbitration, &c.

XXV. Where the conflicting parties may not signify their agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other Officer aforesaid shall proceed to investigate the claims, and in the case of any party failing to attend as aforesaid, shall make an *ex-parte* investigation and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and after duly informing the parties of the same, he shall proceed to mark out the requisite boundary in accordance with the decision, which, subject to the revision of the authority to whom the said officer is immediately subordinate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court. An Appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from passing of the same. Provided also that it shall be lawful for the Governor in Council, on just and reasonable cause for the same being shown, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

Proviso.

Proceedings of Officers imposing charges or fines.

XXVI. The proceedings of Officers imposing charges or fines other than Magisterial, under Sections IV., VI., VII., and IX. of this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such Officers shall be immediately subordinate. An appeal shall also lie to the Board of Revenue or to the Director of Revenue Settlement, according to the authority to which the Officer imposing the charge or fine may be subordinate.

Appropriation of fines.

XXVII. All fines levied under this Act shall be carried to the credit of Government, except when otherwise provided.

Officers empowered to enter and examine private lands.

XXVIII. It shall be lawful for all Officers of Survey and Assessment, Revenue Officers, or other persons appointed by the Government for the purpose

of investigating, settling, or marking boundaries of fields, holdings, villages, and estates, or measuring and assessing the same, and for all persons acting in aid and under orders of such Officers, whenever it may be necessary in the performance of their duty—to enter, examine, or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private Companies or individuals; and such Officers aforesaid, as well as workmen or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

Punishment for obstructing Officers, &c.

XXIX. If any person shall obstruct, molest, or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising Magisterial powers, to a fine not exceeding fifty Rupees, or in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding one hundred and fifty Rupees, or imprisonment not exceeding six months. Provided however that a Magisterial Officer shall have power to punish under this Clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanour, under his general powers.

Proviso.

Government may invest any subordinate in the Revenue or Survey Department with powers under this Act.

XXX. It shall be lawful for the Governor in Council to invest any of the Subordinates of the ordinary Revenue establishments, or of the Settlement or Survey Departments, with any portion of the powers conferred under this Act.

Powers of Deputy Director of Revenue Settlement.

XXXI. Any Deputy Director of Revenue Settlement, being a Sub-Collector and Joint Magistrate, shall be competent to exercise within the District within which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector and Joint Magistrate within his charge: provided however that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department. In cases coming under Regulation IX., 1822, of the Madras Code, tried before a Deputy Director under this Section, the power of control and

revision provided by Clause 3, Section III., Regulation VII., 1828, of the same Code, shall be exercised by the Director of Revenue Settlement.

Servants of the Survey and Settlement Departments subject to Regulations IX., 1822, and VII., 1828.

XXXII. All Servants of the Survey and Settlement Departments shall be subject to the provisions of the said Regulations IX., 1822, and VII., 1828, of the Madras Code, and those Regulations shall apply to the Survey and Settlement Departments in the same way as they apply to the ordinary Revenue Department.

Two preceding Sections to apply to all pending cases.

XXXIII. The provisions of the two preceding Sections shall apply to all cases not finally decided at the time of the passing of this Act.

ARMS AND AMMUNITION.

Act No. XXIX. of 1860.

[*Received the assent of the G. G. on the 30th June,* 1860.

Continues Act XXVIII., 1857, in force for one month from 30th June, 1860.

An Act to continue in force Act XXVIII. of 1857.

Expired.

KOONCH AND CALPEE IN JALOUN.

Act No. XXX. of 1860.

[*Received the assent of the G. G. on the 5th July,* 1860.

Recites expediency of bringing them under the General Regulations.

1, 2. Repeals Bengal Reg. VIII., 1805, as respects Koonch and Calpee, and extends Regulations to those places; (2) saving proceedings pending.

3, 4, 5. Transfers all suits determined before this Act, and (4) all appeals and proceedings pending, and (5) all extant decrees, to the ordinary Courts.

An Act to remove the Pergunnah of Koonch and Calpee in Zillah Jaloun from the operation of the general Regulations.

Preamble.

Whereas the Zillah of Jaloun, with the exception of the Pergunnahs of Koonch and Calpee, has never been brought under the operation of the

general Regulations; and whereas it is expedient that those Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Zillah, it is enacted as follows:

Koonch and Calpee removed from the operation of the general Regulations.

I. Regulation VIII., 1805, of the Bengal Code (*for extending to the conquered Provinces situated within the Dooab, and on the right bank of the River Jumna, and to the Territory ceded to the Honorable the English East India Company in Bundelkund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations*), in so far as it relates to the Pergunnahs of Koonch and Calpee in the Zillah of Jalaun, is hereby repealed, and the said Pergunnahs shall be subject to the same Laws as are now or may hereafter be in the said Zillah.

II. to V. Defunct.

ARMS AND AMMUNITION.

Act No. XXXI of 1860.

[*Received the assent of the G. G. on the 17th July*, 1860.

Recites expediency of regulating the manufacture, &c., of arms, &c., and the right to keep, &c., the same, and of giving power to disarm Districts, &c.

1. Continues Act XXVIII., 1857, to 1st of October, 1860.

2, 3, 4. No person in India shall, unless authorized by Government manufacture, repair, &c., any cannon, &c., under penalty of fine and imprisonment; nor (3) have, without permission of Government, in his possession any cannon, &c., under penalty of fine and imprisonment; (4) the authorization and permission to be in writing and signed by Secretary to Government, and a fee of 50 Rs. to be paid for it.

5. No person shall manufacture, &c., or keep for sale arms of specified kinds, nor percussion caps, sulphur, &c., nor other ammunition without license, under penalty of fine and imprisonment and forfeiture of the arms, &c.

6. Enumerates the prohibited arms.

7—10. Licenses under this Act may be granted by Magistrates, &c., are (8) to be on 10 Rupee stamps; for sulphur to be separate; and (9) licensed person to place a Board with notification in his shop, &c., under (10) penalty of 100 Rupees.

11. Person falsely putting up Board as a licensed person to be liable to fine 100 Rupees.

12. License to be in force for a year only.

13. Persons knowingly purchasing arms, &c., of unlicensed persons to be liable to fine 100 Rupees.

14. Licensed persons to keep an account of stock in trade, &c., and of names, &c., of purchasers, which book shall be open to inspection of Magistrate, and failing or omitting to be liable to fine, forfeiture and loss of license.

15. Empowers Magistrate to enter premises of licensed manufacturer, &c., and to inspect stock, &c.

16. License may be revoked, &c., by officer.

17, 18, 19. Prohibits importation by sea or land of cannon, &c., arms and ammunition except under license; and (18) establishes penalty of imprisonment, fine and confiscation; but (19) requirement of license and penalty not to extend to importations by private persons for their own private use.

20, 21. Empowers G. G. in C. and Local Governments to seize sulphur, except (21) when kept in reasonable quantities for sale or medicinal purposes.

22, 23, 24. Authorize G. in C. and Local Government to prohibit transport of arms, &c., from one part of India to another except as may be permitted by order; and (23) provides penalties for violation of order; but (24) prohibition of penalties not to extend to arms, &c., transported by persons for own private use.

25. Authorizes Police and others to arrest any person conveying, &c., Arms, &c., in manner, &c., to afford grounds of suspicion of unlawful intent, and if arrested by other than Police to be taken to Police Officer.

26, 27. Makes person armed not having license liable to be disarmed by Magistrate, &c., if being armed is deemed dangerous to the public peace; except (27) Officers, &c., in H. M.'s Service, Volunteers, Police and Revenue Officers, and others specially exempted by Government.

28, 29, 30. Legalizes licenses granted by Magistrate, &c., specially authorized, &c.; (29) such licenses to be in form prescribed by G. G. in C.; and (30) to contain particulars.

31. Empowers Magistrate to search for specified kinds of arms, &c., for security of the peace, recording his grounds; such search to be in presence of specified persons.

32. Government of India or Local Government may order any province, &c., to be disarmed, (cl. 5) such order to be published in Gazette, and (cl. 2) in proclaimed provinces, &c., no person to have arms, &c., without license, which (cl. 3) may be granted by Magistrate, &c., revoked, &c.; and (cl. 4) such licenses may be expressed to be in force for journey, &c.; (and cl. 5 ante,) and every person having arms without license while the province is under proclamation to be liable to imprisonment and fine, and his premises may be searched (cl. 7) by Magistrate, &c.; but (cl. 8) this Section not to extend to specially exempted persons.

33. Provides penalty in case of arms being found on search made under two last sections.

34. Provides fine and imprisonment against persons assaulting, &c., any person in execution of this Act.

35, 36, 37, 38. The powers of Magistrates, &c., under this Act to be exercised only up to the limits of their general authority; and (36) subject to this rule, all offences to be tried in place where committed, but (37) Assistants may have deputation of Magistrate in particular cases, same power to fine as Magistrate, and (38) same powers by order of Government, subject to appeal.

39. Magistrate may call any case from his Assistants.

40, 41, 42, 43. Provides exclusive jurisdiction of Supreme Court for offences by European British subjects; and (41) the summary powers of Magistrates in Presidency towns, whose convictions, &c., (42) shall not be quashed for error of form or procedure, &c.; and (43) preserves local jurisdiction of Supreme Court.

44, 45, 46, 47. Penalties may be levied by distress and sale of offender's goods; and (45) offender may be detained until return of distress warrant; and (46) finally committed to prison if distress cannot be levied on goods, &c., unless (47) he be an European B. subject, on whom fine is to be levied through Civil Court.

48. Authorizes reward out of fine to informers.

49. Limits action for any thing done under this Act to 3 months after thing done, and requires one month's notice.

50. Empowers Government to withdraw any place, &c., from the operation of the Act.

51. Act not to alter any existing regulations as to licenses.

52. Hard labour not to be commuted to fine under B. R. 2, 1834.

53. Licenses in Presidency Town may be granted by Commissioner of Police.

54. Interprets the word "India."

55. Act to commence from 1st October, 1860.

An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.

Preamble.

Whereas it is expedient to regulate the manufacture, importation, and sale of Arms and Ammunition and the right to keep and use the same, and also to give power of disarming Districts and places in certain cases, it is enacted as follows:

Act XXVIII. of 1857 continued in force till 1st October, 1860.

I. Act XXVIII. of 1857, shall continue in force until the 1st day of October, 1860.

Manufacture of cannon, &c., without authority of Government prohibited.

II. No person in India, unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, and whoever, not being so authorized, shall manufacture or

assist in manufacturing any cannon, howitzer, or mortar, shall be liable to a fine, not exceeding one thousand Rupees, and to imprisonment with or without hard labor for a period not exceeding three years.

Penalty.

III. If any person in India shall, without the permission of the Local Government, have in his possession any cannon, howitzer, or mortar, except in the course of his duty as a public Officer of Government, he shall be liable to a fine not exceeding five hundred Rupees for every such cannon, howitzer, or mortar, and in default of payment thereof may be imprisoned with or without hard labor for a period not exceeding one year. The provisions of this Section shall not extend to any cannon, howitzer, or mortar, forming part of the ordinary armament of any ship or vessel.

Penalty for possession of cannon, &c., without permission.

Exception.

IV. Whenever the Local Government shall permit any person to possess any cannon, howitzer, or mortar, such permission shall be in writing and signed by the Secretary to the Government, and shall specify the number of cannons, howitzers, or mortars permitted to be possessed by such person. A fee of fifty Rupees shall be paid on the delivery of such written permission.

Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.

V. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion caps, sulphur, gunpowder, or other ammunition, except under a license to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition, as the case may be, and expose for sale, any of such arms, or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, or contrary to any of the conditions contained in such license, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and all arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to the offender shall be forfeited if the Court or Officer before whom the offender is convicted shall so adjudge.

Manufacturing or dealing in arms and ammunition without license prohibited.

Penalty.

VI. The following are the arms referred to in Section V., namely, fire-arms, bayonet, sword, dagger, spear, and spear-head.

Specification of arms referred to in Section V.

VII. Licenses to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition may be granted by a Magistrate, or by an Officer authorised by the Governor General of India in Council or by the Executive Government to grant such licenses.

Licenses by whom to be granted.

VIII. Licenses granted under the last preceding Section shall be in the form prescribed by the Governor General of India in Council, and shall be engrossed on a stamp paper of the value of ten rupees. The stamp paper shall be furnished by the person applying for the license. A separate license shall be taken out for the sale of sulphur.

Form, &c., of license.

IX. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters the vernacular of the District the words "License to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition," as the case may be.

Licensee to fix a board in a conspicuous part of his shop.

X. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding one hundred rupees.

Penalty for omission.

XI. If any person, to whom such license shall not have been granted in the manner prescribed, shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding one hundred rupees.

Penalty for putting up a board without a license.

XII. Licenses granted under Section VII. of this Act shall be in force for one year from the date thereof.

Duration of license.

XIII. Any person knowingly purchasing arms of the description mentioned in Section VI., or any percussion caps, sulphur, gunpowder, or other ammunition from any person not licensed, shall be liable to a fine not exceeding one hundred rupees.

Penalty for knowingly purchasing arms or ammunition from an unlicensed person.

XIV. Every person licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion caps, sulphur, gunpowder, or other ammunition sold by him, together with the nature, description, and quantity of such arms, percussion caps, sulphur, gunpowder, or other ammunition. Such book shall be open at all times to inspection by the Magistrate or other Officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding five hundred rupees, in addition to double the value of any arms, percussion caps, sulphur, gunpowder, or other ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

Licensed manufacturers or dealers to enter in a book an account of stock-in-trade, names of purchasers, &c.

Inspection of book.

XV. The Magistrate or other Officer authorised by Government as aforesaid may at any time enter the premises in which arms, percussion caps, sulphur, gunpowder, or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion caps, sulphur, gunpowder, or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer, and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other Officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonmnt, and any arms, percussion caps, sulphur,

Magistrate or other Officer may inspect dealer's premises.

gunpowder, or other ammunition belonging to such person may be seized and shall be confiscated if the Magistrate shall so adjudge.

Revocation of license to manufacture or deal in arms or ammunition.

XVI. Any license granted under the provisions of Section VII. may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the Officer authorised to grant such licenses whenever he may think fit.

Cannon and arms and ammunition not to be imported without license.

XVII. No cannon, howitzer, or mortar, and no arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India except under a license from the Governor General of India in Council or from some Officer authorised in that behalf by the Governor General of India in Council.

Penalty for importation without license.

XVIII. If any person shall import or attempt to import without such license, either by sea or by land, into any part of the said territories, any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, imported without such license, he shall be liable to imprisonment, with or without hard labor, for any term not exceeding three years, and also to a fine not exceeding one thousand Rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

Importation of arms and ammunition for private use.

XIX. The provisions of the last two preceding Sections shall not extend to arms, percussion caps, gunpowder, and other ammunition imported by any person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

Seizure and detention of sulphur by Government.

XX. The Governor General of India in Council or the Local Government may at any time seize all sulphur in the possession of any person, and

detain the same for such time as they may deem necessary for the public safety.

Exception.

XXI. Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medicinal purposes.

Government may prohibit transport of arms, ammunition, military stores, &c.

XXII. The Governor General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, or any particular description of arms, ammunition, or military stores from one part of India to another, or the transport thereof in any particular direction, to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order, and the Local Government of any Presidency or place shall have the like power within the territories under its Government.

Penalty for prohibited transport.

XXIII. If any person shall transport or cause to be transported, or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported, such arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, he shall, in addition to the fine hereby provided, be liable, upon conviction, to imprisonment with or without hard labor for a term not exceeding seven years.

Provisions of two preceding Sections not to apply to Districts not ordered or liable to be disarmed under Section XXXII.

XXIV. Nothing in the last two preceding Sections shall extend to arms, percussion caps, gunpowder, and other ammunition transported by any person in reasonable quantities for his own private use in any District or place not ordered or liable to be disarmed under Section XXXII. of this Act.

Persons conveying arms, ammunition, &c., under suspicious circumstances may be apprehended without warrant.

XXV. If any person shall be found carrying or conveying any arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any Magistrate, Deputy Magistrate, or Assistant to Magistrate, or Police Officer, or for any other person, to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, and to detain such person in custody in order that he may be dealt with according to law. If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, he shall be delivered over as soon as possible to a Police Officer; and all persons apprehended by or delivered to a Police Officer under the provisions of this Section shall be carried before a Magistrate or other Officer competent by law to punish him for the offence or to commit him for trial.

Procedure if apprehended by other than Magistrates, &c.

Penalty for going armed or carrying arms without a license.

XXVI. If any person shall go armed with or carry any arms of the description mentioned in Section VI. of this Act without having obtained a license from a Magistrate or other Officer authorised by the Governor General of India in Council or the Local Government authorising him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate, or Deputy Magistrate, or Assistant to a Magistrate, or by a Police Officer, if in the judgment of such Magistrate or other Officer aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms. [Modified by Act VI., 1866, s. 2.]

Exemptions.

XXVII. The provisions of the last two Sections do not apply to—

Commissioned, Non-Commissioned, and Warrant Officers, Soldiers and Sailors.

Officers, Non-Commissioned Officers, Warrant Officers, Soldiers, and Sailors, in the Military or Naval Service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service.

Volunteers.

Members of Volunteer Corps in respect of such arms and ammunition.

Police and Revenue Officers and other persons in respect of arms and ammunition furnished by Government for use in the public service or provided by themselves with the sanction of Government for such use.

Police and Revenue Officers.

[Such other persons as the Local Government may think fit to exempt from such provisions.] Bracketed part annulled, and new words substituted by Act VI., 1866, s. 3.

Other persons.

XXVIII. Licenses to carry arms may be granted by any Magistrate or other Officer specially authorised by the Governor General of India in Council or the Local Government to grant such licenses, and may be revoked or suspended by any Officer authorised to grant such licenses whenever he may think fit. [Modified by Act VI., 1866, s. 2.]

Grant and revocation or suspension of licences to carry arms.

XXIX. The license shall be in the form prescribed by the Governor General of India in Council. [Modified by Act VI., 1866, s. 2.]

Form of license.

XXX. The license shall state whether its operation is limited to the person in whose favor it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms and the number and description of arms to be carried by each of such followers shall be specified. [Modified by Act VI., 1866, s. 2.]

License to state name of grantee, and number of followers to whom it is to apply.

XXXI. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in Section VI. of this Act, or percussion caps, sulphur, gunpowder, or other ammunition for any unlawful purpose, or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion caps, sulphur, gunpowder, or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person, or on which the Magistrate may have reason to believe such arms, percussion caps, sulphur, gunpowder, or other ammunition are to be found, and to seize and to detain the same

Search and seizure of arms and ammunition in certain cases.

in safe custody for such time as he may deem necessary. The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European Assistant, or by or in the presence of some European Officer, Civil or Military, to be specially empowered by Government.

Executive Government may order any District or place to be disarmed.

XXXII. *Clause* 1.—It shall be lawful for the Governor General of India in Council or for the Executive Government of any Presidency or for any Lieutenant-Governor, or, with the sanction of the Governor General in Council, for the Chief Commissioner or Commissioner of any Province, District, or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any Province, District, or place shall be disarmed.

Possession of arms and ammunition without license prohibited.

Clause 2.—In every such Province, District, or place as well as in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII. of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in Section VI. of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

Grant of licenses, &c.

Clause 3.—Licenses to have in possession any arms of the description mentioned in Section VI., or percussion caps, sulphur, gunpowder, or other ammunition may be granted by any Magistrate or other Officer specially authorized by the Governor General of India in Council or the Local Government to grant such licenses, and may be revoked or suspended by any Officer authorized to grant such licenses whenever he may think fit. The license shall be in the form prescribed by the Governor General of India in Council or by the Local Government.

License to travellers to carry arms.

Clause 4.—If any person shall have a license from the Magistrate of the District or place at which he resides or may be, to carry on a journey such arms as the Magistrate may consider reasonable for his private use, and shall obtain from such Magistrate a license stating the name and address of such person, the route by which he intends

[illegible] the time which such journey is expected to occupy, and the arms which he is permitted to carry, such license shall have the same force and effect, according to its tenor, in every District or place specified therein, as if leave to go armed had been granted by the Magistrate of such District or place.

Publication of order for disarming.

Clause 5.—In every Province, District, or place which shall be ordered to be disarmed, the order of the Governor General of India in Council or of the Local Government shall be published in the "Calcutta Gazette", or in the Gazette in which the orders of the Governor General of India in Council or the Local Government making the order, as the case may be, are usually published, and shall also be made public in such other manner as the Governor General of India in Council or the Local Government shall direct.

Penalty.

Clause 6.—Every person who, after the expiration of the time mentioned in such order in any Province, District, or place to which this Section shall be extended, or who after the 1st day of October, 1860, in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation as aforesaid, shall have in his possession or custody any such arms as aforesaid, or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, shall be liable to be imprisoned with or without hard labour for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees, and it shall be lawful for the Magistrate or other Officer mentioned in the order to search or cause to be searched any house or premises occupied by such person, or in which the Magistrate may have reason to believe that any such arms, percussion caps, sulphur, gunpowder, or other ammunition are concealed.

Search.

Clause 7.—The search shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate or European Assistant, or by or in the presence of some European Officer, Civil or Military, appointed by Government to conduct such searches; and all such arms, percussion caps, sulphur, gunpowder, and other ammunition found on such search shall be confiscated.

Clause 8.—The provisions of this Section shall not extend to any person or persons exempted by the authority of the Governor General of India in Council, or of the Local Government of the proclaimed District, or by any European Officer serving in such District duly authorized by the Local Government on that behalf.

Exemptions.

XXXIII. If on any such search being made under the provisions of either of the last two Sections, any person having in his possession or power any such arms, percussion caps, sulphur gunpowder, or other ammunition, or knowing where such arms, percussion caps, sulphur, gunpowder, or other ammunition are concealed, shall refuse to produce or point out the same to the Officer making the search, or if any person shall intentionally conceal or attempt to conceal any such arms, percussion caps, sulphur, gunpowder, or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees.

Penalty for refusing to produce or for concealing arms, &c., searched for.

XXXIV. Whoever assaults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months, or to both fine and imprisonment.

Penalty for assaulting or resisting any person in the execution of any power vested in him by this Act.

XXXV. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which the Magistrate, Joint Magistrate, or other Officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other Officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other Officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate,

Cognizance of offences.

he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued any such Officer may by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XLVII. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to informers.

XLVIII. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

Notice and limitation of suits.

XLIX. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Parts of District may be withdrawn from the operation of the Act and again made subject to it.

L. It shall be lawful for the Governor General of India in Council or for the Executive Government of any Presidency or for any Lieutenant-Governor, or with the sanction of the Governor General of India in Council for any Chief Commissioner of any province from time to time to withdraw from the operation of all or any of the provisions of this Act any part or parts of any District or place; and in like manner as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Act not intended to alter or affect any other law relating to licenses.

LI. Nothing in this Act shall be construed to alter or affect the provisions of any Law or other Regulation for the time being in force relating to Licenses.

Award of hard labour not commutable to fine.

LII. Whenever an award of hard labour is made under this Act the Court shall not commute such labour to the payment of a fine under Regulation II., 1834, of the Bengal Code.

Grant of licenses in Presidency Towns.

LIII. All licenses which may by this Act be granted by a Magistrate may in the Presidency Towns be granted by a Commissioner of Police.

Interpretion of the word "India."

LIV. The word "India" in this Act shall mean the Territories which are or may become vested in Her Majesty by the statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

Commencement and duration of Act.

LV. The first Section of this Act shall take effect from the passing thereof and all the rest of this Act shall take effect from and after the 1st day of October, 1860. [This Act shall continue in force for five years from the said 1st day of October.] Bracketed part repealed by Act VI., 1866, s. 1.

Continued by Act VI., 1865, to 1st October, 1866; and by Act VI., 1866, s. 1, continued with modifications until the G. G. in Council shall by an order declare otherwise.

INCOME TAX ACT.

ACT No. XXXII. OF 1860.

[*Received the assent of the G. G. on the 24th July*, 1860.

1. From and after 31st July, 1860, establishes for limited time duty of 3 per cent. on annual value of property and profits specified in Schedules. SCHEDULES specify descriptions of property liable—(1) lands and houses in India. (2) Income from property any where situate, and from professions, &c., of foreigners and non-residents as well as others; (3) from interest, annuities, dividends, &c.; (4) from offices and employments, salaries, &c.

2. Establishes the rules for assessment, &c.

3. Imposes further duty of 1 per cent. for roads, &c., and other reproductive public works.

4. Extends the duty to fractional parts of 100 rupees.

5, 6. Duties to be charged, &c., by yearly assessment, &c.; and (6) the first year to commence from 1st August.

PART II. 7, 8, 9. Places the Duties under the direction and management of the G. G. in C. and Local Governments; and (8) adopts existing Revenue districts, &c., except as specified, viz., in Presidency Towns, &c., the limits of which (9) for purposes of this Act may be fixed by Local Government, &c.

10, 11, 12, 13, 14, 15. Local Government to appoint Commissioners in Presidency Towns, (11) not less than six, of whom two are to be not in service of Government (and in Straits' Settlements three, &c.); but (12) if the two refuse, &c., to act, others either in Government service or not may be appointed; the appointment (13) to be for one year, renewable; and (14) two to be a quorum; and (15) the senior Government Commissioner to be President.

16, 17, 18, 19. In Presidency Town and Straits' Settlement, a salaried Special Commissioner to be appointed; and (17) assessors; but (18) elsewhere the Collector of Land Revenue to manage, &c., the income tax; and he (19) may associate two persons with himself to assist him in making assessments, &c.

20, 21, 22, 23, 24, 25. In any District Government may appoint Deputy Collectors or (21) the present Deputy Collectors as assessors; and (22) Collector may delegate his power to limited extent to Deputy, subject to appeal; or (23) to unlimited extent to any subordinate officer with sanction of Government; and (24) Local Government may authorise Collector to assign salaries subject to approbation of G. G. in C.; and (25) Collectors and Commissioners may act as assessors.

PART III. 26, 27, 28, 29, 30, 31. Constitutes as *ex-officio* assessors, the Accountant General, &c., and any authority in charge of Treasury and having payment of interest, &c., out of public revenue, except that (27) the Civil Auditors shall be *ex-officio* assessors as respects civil salaries, &c.; and (28) that the military auditors shall be the *ex-officio* assessors as respect military pay, &c.; and (29) that the Navy and Marine Auditors shall be the *ex-officio* assessors as respect pay, &c., in that department; and (30) that the Pension Auditor shall be an *ex-officio* as respects pensions; and except also (31) when Government shall appoint a special assessor in regard to dutiables under Schedules 3 or 4.

32. Invests *ex-officio* assessors with full powers of Collectors, &c.

33, 34. Commissioners and assessment officers shall take an oath of secrecy; to be administered (34) in Presidency towns by Commissioner; elsewhere by Collector.

PART IV. MODE OF ASSESSMENT. 35. Record of proceeding to be kept by Collector, &c.

36, 37, 38. Collector, &c., to assign district to assessor; and (37) issue general notice to all persons; and (38) assessors to issue notice to individuals for returns in specified form.

39, 40, 41. Person liable to tax to fill up the returns, signed with declaration; and also (40) make return in specified form, of profits received by him for other person; and (41) joint agents to join in return.

42. Return when required to be made of lodgers and inmates and of others than menial servants in his service, whether resident or not, with specified particulars.

43, 44, 45. In Presidency Town and Straits' Station return may be sent to Special Commissioner sealed, for him to affix assessment, and (44) elsewhere than Presidency Town to Collector if income exceed 2,000 Rs.; and (45) such returns to be accompanied by the declaration.

46, 47, 48, 49. The Assessor shall compute the duties on the returns according to the rules; and (47) if he consider the return too low may surcharge it; and (48) shall make list of those who have omitted to make return, and may charge them; and (49) also a list of persons who have sent returns to Special Commissioner.

50. Entitles Assessor to access to collectorate and revenue records.

51. Assessors to deliver their abstracts and lists to Collectors, &c.

52, 53, 54, 55. Collectors, &c., to make assessment on the returns, and (53) in accordance with return if satisfactory, subject to surcharge in case of fraud; or (54) if not satisfactory shall surcharge the return; (55) giving notice of surcharge to party and appointing day to hear them.

56. Cl. 1.—Directs mode of hearing objection to surcharge; (cl. 2) permits correction of mistake in Law and decision of point referred by Collector; (cl. 3) objector must deposit costs; and (cl. 4) pay duty in the meantime; and (cl. 5) be charged with general costs if objection was frivolous.

57. Assessment for place when complete to be made up in general list and be collected.

58, 59, 60. In case of application under ss. 43, 44, Collector or Special Commissioner may assess at amount suggested, if satisfied; and (59) if not satisfied may surcharge giving notice thereof; and (60) such surcharge to be final.

61. In Presidency Towns, &c., Special Commissioner to seal up and transmit the papers to the Commissioner.

62, 63. All returns and records to be kept under seal; and (63) papers relating to the assessment to be inspected only by officers concerned.

64. Person having occasion to appear before Collector must appear in person unless excused, but no practitioner of the law shall be allowed to appear for anyone.

65, 66. Persons employed in execution of this Act to be subject to the tax; and (66) shall have no voice in any question affecting his own liabilities.

PART V. 67, 68, 69, 70. Compositions for duties of Schedule 2 may be made for 3, 4, or 5 years, after return and before assessment; (68) after assessment in manner specified; and (69) terms of composition to be an annual increase of 5 per cent. on first assessment; (70) and after composition no further returns to be required.

71, 72, 73, 74, 75. Composition not to be considered, or made unless contract is signed; such contract (72) to be made in 2 parts; and (73) shall be an authority to the Collector to assess accordingly; but (74) shall be determined on 30th April after death, bankruptcy or insolvency; (75) and shall be of no effect if based on false returns or obtained by fraud.

76. Only officers having full powers of Collectors shall have authority to make contract.

PART VI. 77. Trustees, &c., Trustee, guardian, curator and committee of infant, &c., to be charged, if infant, &c; be chargeable.

78, 79. Agents, factors and receivers of pensions resident out of India to be charged for their principals; and (79) such Trustees, &c., and such agents, &c., to be answerable for all acts required from their principals as persons chargeable.

80. Trustees and Agents whose principals and *cestui qui* trusts receive their funds direct and not from the Trustee, &c., are required only to make returns of names and addresses, &c.

81, 82, 83. Requires, &c., Trustees, &c., to make specified returns; and (82) joint trustees may make one return either jointly or by one for himself and co-trustee; and (83) to have same relief in case of double assessments as other persons.

84, 85, 86, 87, 88, 89, 90. Receivers and managers of estates in Court to be chargeable, whether the title is in dispute or not; and (85) same as to Courts of Wards; and (86) same as to Administrators-General; and (87) such receivers, managers, Courts and Administrators shall be answerable under this Act; and (88) same as to bodies politic or corporate or collegiate, and all companies or societies; and (89, 90) as to registered companies or societies.

91, 92. Treasurer, Secretary, Principal Agent or Manager in India of Body, Company, &c., to make returns, &c., of profits, of Company; (92) such profit to be computed exclusive of dividend.

93. Authorizes Trustees, &c., to return the amount of duties chargeable on them.

94. Married woman subject to Law of England, a sole trader, shall be chargeable as if she were sole.

95. The profits or income of married woman subject to Law of England to be deemed the profits of the husband.

96. Married woman subject to Law of England, living separate from her husband, receiving allowance shall be charged as if she were a *feme sole*.

PART VII. RULES UNDER SCHEDULE I.

97. Rules 1—23. Annual profits. The duties shall be imposed under specified rule, (r. 1) annual profits of Khas land not under Government settlement shall be assumed to be one-third of the Government rent; unless (r. 2) proved to be less; and (r. 3) owner objecting to the ⅓ rate, must make returns according to specified rules. (r. 4) Persons to whom r. 1 does not apply to make returns as specified, and returns to be conclusive against party making it; and (r. 5) part owners to make return as to their own

share, and joint shares may join; and (r. 6, cl. 1) return to be of gross rent, &c., and (cl. 2) may be charged on gross rent; in which case (cl. 3) he may deduct rent payable by himself; which deduction (cl. 4) shall be as a payment to Government; and (r. 7) except actual cultivators, occupiers, not being owners shall return the profits they make by land or houses; and (r. 8) owners being occupiers to be assessed at value equal to rack rent; and (r. 9) fine on bonus for lease to be assessable; and (r. 10) mortgagee, &c., in possession to be assessed as owner; and (r. 11) in case of death of owner, &c., the person becoming entitled to the rent shall pay arrears; and (r. 12) distinct owners of parts to be separately chargeable; (r. 13) what deductions may be made; and (r. 14) if wrongly made may be surcharged for; (r. 15) prescribes mode of computation when rent received in gain; (r. 16) unoccupied lands, &c., liable to assessment; but (r. 17) not to be paid for; (r. 18) provides for disputed valuations; and (r. 19) costs of professional valuation; and (r. 20) for deduction in favor of owner from valuation in case of loss through floods, &c.; and (r. 21) for deducting in favor of occupier; or (r. 22) of owners, being occupiers; and (r. 23) for deductions on account of loss of rent by insolvency, &c.

PART VIII. RULES UNDER SCHEDULE 2.

98. Duties to be imposed under following rules: (r. 1) Duty on Trade profits to be charged on the profit made in the year preceding assessment. Profit in trade entirely carried on out of India, &c., not chargeable; (r. 2) on newly set up trade, profits to be assumed at an average; (r. 3) duty to extend to every kind of trade and every kind of trading company; (r. 4) defines certain expenditure to be deducted; (r. 5) but interest or annuity payable out of profits not to be deducted.

DUTY ON PROFESSIONS, &c. (R. 6). No profession or employment to be exempted; (r. 7) to be computed on scale of preceding year's profits, and (r. 8) subject to rules 4, 5 as to deductions. (r. 9, 10) explain what deductions may be made in estimate of profits; and (r. 11, 12, 13, 14) how joint parties shall be assessed and who shall make the returns. (r. 15) Provides for separate assessment of partner claiming exemption; and (r. 16) for separate returns; and (r. 17) for change of partners. (r. 18) Returns to state every source of income. (r. 19) Relates to companies.

DUTY ON UNCERTAIN YEARLY VALUE. (R. 20, 21). To be charged on profit of preceding year.

DUTY ON INCOME FROM ABROAD. (R. 22). To be charged according to last year's receipts.

DUTY ON INCOME FROM UNENUMERATED SOURCES. (R. 23). To be charged on an average.

GENERAL RULES. (R. 24). Losses of one trade may be deducted from profit of another; (r. 25) separate returns to be made for each trade; (r. 26) deducting from profits part of house rent; (r. 27) annuities, &c., charged on trade, &c., to be assessed; and (r. 28) the tax when not to be deducted from

annuity, &c.; and (r. 29, 30) when otherwise; and (r. 31) payment of tax to operate as an acquittance; and (r. 32) as to how interest not annually reserved shall be charged; and (r. 33) certificate of charge being made in one place on interest to be granted as a protection against same charge in another place.

RULES AS TO DISTRICTS IN WHICH PERSONS ARE CHARGEABLE. (R. 34—44.) Companies, &c., chargeable where head office is situate; (r. 35) householders at dwelling place; (r. 36) traders, &c., at place of business; (r. 37) manufacturers at place of manufacture; (r. 38) other classes at place of ordinary residence at the time; (r. 39) of making the assessment; and (r. 40) charge to stand good at such place, notwithstanding removal of person charged; and (r. 41) persons having 2 places or residence to make returns at both; and (r. 43) be assessed at both; but (r. 44) shall not make double payment.

TEMPORARY RESIDENTS IN INDIA. (R. 45—48.) Not to be charged if resident not exceeding 6 months; but (r. 46) after that period to be chargeable; and (r. 47) broken periods making six months in year to be accounted as six months. And general (r. 48) returns, &c., under Schedule 2 may be delivered sealed, &c.

PART IX. RULES UNDER SCHEDULE 3.

99. Duties under Schedule 3 to be charged under following rules:—(r 1—6). To be assessed by *ex-officio* and Special Assessors and to be deducted from interest, &c., and (r. 2) enfacement on Government P. N. to be made subject to condition of deducting In. Tax; and (r. 3) tax to be deducted on payment of interest, &c.; which deduction (rs. 4, 5, 6) shall stand in place of payment.

PART X. RULES UNDER SCHEDULE 4.

100. Duties to be chargeable on salary, &c., however payable, for every description of office, employment, pension, &c.; as first, on public offices, &c. (r. 1) to be assessed at time of audit, or where no audit, at time of payment, and (r. 2) on (cl. 1) income of all officers payable out of public revenue; (cl. 2) of Commissioner of the Army (cl. 3) and Navy, and (cl. 4) Indian Navy and Marine, and (cl. 5) any Court of Justice, and (cl. 6) any public institution, and (cl. 7) public office whatever; (r. 3) Profits of office, &c., not being salaries to be assessed according to last year's income. Secondly, on persons holding office in Company; (r. 4) such person to be assessed by a special assessor; (r. 5) as liable at head office of Company; and (r. 6) assessment of such persons to be sent to head office; and (r. 7) tax shall be paid there; and (r. 8) claims of such persons to exemption to be referred to Collector, &c.; who (r. 9) shall send warrants to collecting officers; (r. 10) if duties cannot be stopped, the person charged to pay personally; but (r. 11) shall be stopped out of salary; and (r. 12) duty to be estimated on clear salary, and (r. 13) new assessment to be made for increase of salary, in course of year; and (r. 14) duty deducted against intermediate receiver shall be deducted ultimately from person chargeable; and (r. 15, 16) deputy to be charged with

deduction made on his account against principal; and (r. 17) if salaries of many be chargeable by one deduction, the aggregate sum shall be divided among the many chargeable; and (r. 18) duty to be deducted whenever salary is paid.

PART XI. DISCRETIONARY MODES OF ASSESSMENT.

101, 102. Except in Presidency Towns and Straits' Settlements, Government may order assessment under Schedules 1 and 2 to be made by Punchayet of not less than 3; who (102) shall be appointed by Collector, &c.

103. All returns to be made to Collector.

104. Person objecting to be assessed by Punchayet shall be assessed by Collector, &c.

105—108. Collector may order Punchayet to revise assessment, &c., and (106) if not revised or not made satisfactory, no further proceedings shall be had upon it; but (107) it shall be confirmed by Collector if satisfactory; and (108) shall be final when confirmed.

PART XII. APPEALS FROM ASSESSMENTS BY PUNCHAYETS.

109—114. Person assessed by Punchayet may appeal within 15 days from proclamation; (110, 111) according to provisions of Part IV., and (112) Collector may reduce assessment, or (113) dismiss appeal and surcharge the assessment, and (114) members of Punchayet may attend and support their assessments.

115. Local Government may make rules for Punchayet.

PART XIII. EXEMPTIONS.

116—122. Persons whose aggregate annual income is under 200 rs. not to be assessed; and (117) if above 200 but under 500 to be assessed only at 2 per cent. and not to be assessed to the 1 per cent., and (118) the exemption to be claimed where charged; notice of claim to exemption (119) to be given in place where claimant resides; which (120) shall be sent by Assessor to Collector, &c.; who (121) shall certify the exemption if allowed to whom; and (122) exempted person having paid shall have refund.

123. Exemption to be made by *ex-officio* and Special Assessor when assessment made by him.

124. If claimant is out of India, his affidavits may be received.

125. Claim to exemption may be made by guardian, &c., on account of others, if they are unable to attend.

126. Profits, &c., belonging to Government not to be chargeable.

127—132. Officers, &c., of Military forces whose pay and allowances are less than Captain of Infantry in Her Majesty's forces in India shall be exempt as respects pay and allowances; and (128) exempts all warrant and petty officer and officers of Her Majesty's Navy, I. Navy, and Marine Department not above the rank of Lieutenant; and (129) exempts all public officers in respect of allowance for travelling expenses and other specified allowances; and (130) exempts ryots and cultivators, whose rent or occupation value is less than 600 rs. per annum; and (131) exempts occupiers of houses at rack-rent; and (132) allows expenses of repairs to be deducted from rack-rent.

133. Local Government may order exemption wholly or partially of property dedicated to religious or charitable public purposes.

134—136. Allows deduction to be made in respect of premiums of Life Insurance and for deferred annuities and (135) payment made without deduction, money may be repaid; but (136) such allowance not to exceed ⅕th of the amount of tax chargeable.

PART XIV. ABATEMENT AND RELIEF FROM DOUBLE ASSESSMENT.

137, 138. Empowers Collector to make remission for double assessment; and (138) remitted sum to be repaid according to relief.

139. Entitles person assessed upon over-estimate of profits to abatement or return on proof that profits have fallen short of assessment.

140, 141. The like in case of bankruptcy, &c., taking place after assessment and of person going out of business; but (141) not if business is continued by another person.

PART XV. MODE OF PAYMENT AND COLLECTION OF THE DUTIES.

142. Duties to be paid quarterly on or before specified dates, unless otherwise ordered by Local Government.

143—145. Collectors, &c., to issue in duplicate list of the assessments made by them, in (144) form herein prescribed; and (145) such duplicates shall be warrant and authority to collecting officers.

146, 147. Payment of duties may be made at Treasury; where (147) a receipt shall be given.

148. Treasuries for receipt of duties to be notified by proclamation.

PART XVI. MODE OF PAYMENT UNDER SCHEDULE 2, UNDER NUMBERS OR LETTERS.

149—153. Entries of assessments to be distinguished by numbers or letters as well as the names of parties; and (150) party may signify his intention to pay at Treasury, and (151) thereupon shall have a certificate by his number or letter without his name; and (152) payment shall be received at the Treasury according to certificate; and (153) corresponding receipt shall be given.

154—157. Collector, &c., to issue to collecting officers lists of assessments made by him, by numbers or letters without names, and payment to be made to collecting officer, and (155) payment shall be duly made; and (156) acknowledgment of collecting officer shall be a discharge for Collector; and (157) person making default to pay, or not sending acknowledgment of payment to Collector shall be liable to process for realization.

158, 159. Parties not notifying intention to pay at Treasury to be put on list for collecting officer, and (159) on default shall be put into defaulting list for collecting officer.

PART XVII. RECOVERY OF DUTIES.

160—163. Duties unpaid at due date may be recovered by distress and sale of moveable and attachment of immoveable property (161) in manner specified (r. 1) by distraining officer after demand (r. 2) in writing and making inventory; (r. 3) sale to be within three days; and (r. 4) service on absent

defaulters to be at usual place of residence; and (162) if defaulter cannot be served, inventory to be sent to Collector, &c.; (163) sale not to take place if defaulters tender the duties and expenses.

164, 165. Distress not to be excessive, and (165) shall only be made between sunrise and sunset.

166—168. Distraining officer may break open stables, &c., and enter dwelling-house if outer door open, excepting female apartments, and may break open doors of lodgers who are defaulters; and (167) may in presence of head officer of Police break open outer and inner doors where property of defaulter is secreted; and (168) after notice for removal of females may in like manner enter female apartment, property secreted in which shall be removed immediately.

169, 170. Immoveable property not to be attached without previous sanction of chief revenue authority; and (170) after sale of moveable, amount may be realized by sale of immoveable property.

171, 172. Before sale, list of property to be sold shall be affixed on outer door, with notice of day, hour, and place of sale; and (172) sale of immoveables not to take place till after 15 days' notice.

173—175. Sale to be in one or more lots, and (174) for ready money, and defaulting purchaser to pay expenses and loss on re-sale; and (175) surplus proceeds to be paid to defaulter.

176. House and land in respect of which duty is chargeable may be sold if no other saleable property.

177, 178. Defaulters removing from one district may be followed, and (178) be proceeded against in other district.

179. Fees to be prescribed by Local Government.

180. Defaulter may be arrested and sent to Civil Gaol, for not exceeding 3 months, and 6 months, for arrears not exceeding 50 rs. and 500 rs., and for 2 years above 500 rs.

181—184. Counter claims by third person to moveable property seized, to be decided by Small Cause Court in Presidency Town, (182) by Court of Judicature in Straits' Settlement, and (183) elsewhere by Collector in a summary way; and (184) third person making counter-claim to immoveable property to give security for duty and bring civil suit within one year to decide the right.

185, 186. Claim of Government to duty to have priority, &c.; and (186) creditors having execution against property shall pay the Government claim to duty.

187, 188. Parent, guardian, or representative of minor who is chargeable to be liable in respect of assets of minor; and (188) Government claim to have priority in the course of administration of assets of deceased bankrupt and insolvent debtors.

189. Provides for retrospective application of the Act in specified district.

PART XVIII. APPLICATION OF THE DUTIES.

190—194. All moneys arising from the duties shall be paid into the Government Treasuries to I. T. Account, (191) of which the 1 per cent. duty shall be kept in a separate account, and (192) the 1 per cent of the Presidency Towns shall be kept in separate account; and (193, 194) further separate accounts shall be kept, so as to admit of appropriation to the different Local Governments and places for local public works.

PART XIX. PENALTIES.

195. On Officers fraudulently collecting, &c., duty from person not charged or chargeable; (r. 2) fraudulently receiving, &c., more than is charged; (r. 3) receiving and not paying over the whole of the money; (r. 4) on Officer employed to serve notices, &c., extorting bribe for forbearing, &c.,—misdemeanour punishable with imprisonment and fine.

196. On persons not employed to serve notices, &c., falsely pretending to be so, and obtaining or attempting to obtain money, &c.,—same offence and punishment as above.

197. On persons entering female apartments contrary to provisions of Part 17 of this Act, imprisonment, &c.

198. On persons knowingly taking away property distrained under the Act, imprisonment, &c.

199. For forgery, &c., of any certificate, &c., or of any receipt, &c., or altering same, &c., with intent to defraud—felony, and penal servitude, &c., if a European, &c.; or transportation, &c., if a Native.

200. For assaulting, &c., or restraining, &c., or overawing, &c., Collector, &c., with intention to prevent his exercising power under this Act, or combining to close shops, &c., or doing any act with intent to induce breach of the peace or obstruct the operation of this Act, imprisonment, &c., or fine, or both, &c.

201. For violence, threats, or intimidation, &c., to prevent performance of obligations under this Act, imprisonment or fine, or both, &c.

202, 203. For falsely swearing or affirming to any public servant, under this Act, imprisonment, with or without fine. Such offence (203) if by a European British subject to be tried in Supreme Court, or where the false matter was exhibited.

204, 205. For knowingly, &c., making, &c., false, &c., account, &c., in any return under this Act, treble the amount of duty and fine of 100 rs.; and (205) for aiding and abetting, &c., the making, &c., of false account, &c., fine, 500 rs.

206. For false claim to abatement under Schedule 1, or fraud in regard to it, or false declaration of loss, &c., with fraudulent intent, &c., treble the duty and a fine; and occupier assisting his landlord, &c., to be fined 500 rs.

207. For knowingly making false claim to abatement under any Schedule or exemption, &c., and fraudulently concealing income, &c., forfeiture of 500 rs. and treble duty and on persons aiding &c., fine, 500 rs.

208. For offence under s. 75 in regard to composition, fine 500 rs. and treble duty.

209. For refusing, &c., to appear, &c., being duly summoned, before Collector, &c., or refusing to be sworn, &c., or to answer, &c., fine not exceeding 200 rs.

210. For refusing, &c., to deliver any return, &c., or neglecting to do so within limited time, fine not exceeding 200 rs., and liability to treble duty.

211. For refusing, &c., when required &c., to verify, &c., any return or to appear before Collector, &c., fine not exceeding 200 rs. and liability to treble duty.

212. For wilfully disclosing while under oath of secrecy, imprisonment &c., and fine, &c.

213. Exempts from penalty for not making return, persons who have not been served with notice.

214. For wilful obstruction of Assessor or any Officer, in execution of Act, fine not exceeding 500 rs.

215. Any person chargeable for fraudulently changing his residence, or concealing, &c., his property, or altering securities, to avoid being charged, or for falsehood, &c., with same intent, treble duty, and in case of his success, imprisonment, &c., and fine, &c.

216. For leaving district without first paying duty, or having sufficient property to satisfy it, fine, &c.

217. All the above penalties to be in addition to any other punishment provided by him.

PART XX. MODE OF ENFORCING PENALTIES.

218—224. Offences under this Act, except where otherwise provided to be tried by Magistrate, if punishment is within limit of his jurisdiction, and beyond that to be sent to Sessions Judge; and (219) if punishable with fine, or fine and imprisonment, may be tried either where committed or where offender is; and (220) if punishable with fine only may be referred by Magistrate to his Assistants; and (221) Local Government may enlarge authority of Assistants subject to appeal; and (222) Magistrate may call for proceedings of Assistants; and (223) British subject to be amenable according to general law of jurisdiction; and (224) in Presidency Towns and Straits' Settlements, Magistrates to have jurisdiction where punishment is fine or fine and imprisonment not exceeding six months.

225. Conviction, &c., not to be quashed for error of form, &c., but only on the merits; depositions to be returned with conviction, and may be referred to support it.

226. Except as above all other offences within Presidency Towns, &c., to be tried by Supreme Court.

227—230. All fines, &c., may be levied by sale and distress of offender's goods; and (228) defaulter may be apprehended until distress is realised, unless he give security; or (229) if no distress can be made, defaulter may be committed, unless a British subject, proceedings against whom (230) shall be forwarded to Civil Court for execution.

231. Hard labor not to be commuted for fine.

232—236 and 239. Penalties not exceeding 200 rs., exclusive of increased

duties may be recovered before Collector or two Commissioners, &c.; (233) on information and by summons of accused; and (234) they may proceed in a summary way and adjudge the penalty or reduce; and (235) the adjudged penalty may be added to the assessed duty; and (236) penalties so adjudged shall be levied as duties may be; and (239) costs may be added.

237. Informers to be entitled to a moiety of any penalty, if they have conducted themselves well.

238. Adjudication of Collector to be final and conclusive.

239. See *ante*.

240. Increased rate of duty when final may be added to assessment, and collected, &c., as duty.

241. Separate account to be opened for penalties.

PART XXI. MISCELLANEOUS.

242. Provisions of an administrative kind in regard to one Schedule may be extended to any other Schedule.

243. Governor General in Council may postpone the operation of the Act for any part of India.

244. Exempts tax officers from legal responsibility for past levy of any tax or duty under sanction of Government; and tax or duty so sanctioned may be levied as under this Act.

245. No action &c., for any thing done in pursuance of this Act to be commenced without a month's notice, &c., nor after three months after accrual of cause.

246. G. G. in C. may prescribe forms of returns, &c., (cl. 2) what shall be published; and (cl. 3) remain in force until altered, &c.

247. G. G. in C. may allow salaries, &c., to officers, &c., under this Act.

248. Interprets the words, "India;" "G. G. in C.;" "Local Government;" "Lt.-Governorship;" "Division;" "Chief Revenue Authority;" "Collector;" "Magistrate;" "Land;" "House;" "Rack-rent;" "Owner;" "Holder;" "Person;" "Representative;" "Company;" "Trade;" "Profession;" "Profits;" "Lunatic;" "Oath."

249. Act to commence from and after 31st July, 1860, and continue in force until 1st August, 1865.

An Act for imposing Duties on Profits arising from Property, Professions, Trades, and Offices.

Amended by Act XL., 1860. Expired on 1st August, 1865.

EMIGRATION TO NATAL.

ACT No. XXXIII. OF 1860.

[*Received the Assent of the G. G. on the 24th of July*, 1860.

Recites expediency of legalizing Cooly emigration to Natal.

1. Repeals Act XIV. of 1839, so far as it would apply to emigration from Presidency Ports to Natal.

2. Extends Act XXXI. of 1855 to emigration to Natal. Voyage to Natal from Calcutta 12 weeks, Madras 10, Bombay 10; but Ships may sail at any season.

3. Act to take effect from time of notification of Governor General in Council.

An Act relating to Emigration to the British Colony of Natal.

Repealed by Act XIII., 1864.

INDEMNITY FOR ILLEGAL ACTS DURING MUTINIES.

Act No. XXXIV. of 1860.

[*Received the assent of the G. G. on the 2nd August*, 1860.

Recites imposition of fines, &c., during Mutinies; also assessments, &c., for re-construction, &c., of public buildings; and expediency of indemnifying Officers of Government in respect thereof.

1. Legalizes all fines, &c., imposed since 10th May, 1857, on any account in connection with the Mutinies, and discharges all persons from liability in respect thereof.

2. Legalizes all acts done during same period in pursuance of order of Government.

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied and Acts done by them during the late disturbances.

Expired.

TRANSPORTATION OF CONVICTS.

Act No. XXXV. of 1860.

[*Received the assent of the G. G. on the 2nd August*, 1860.

Recites expediency of providing for transportation of convicts only to such places as Governor General in Council shall appoint.

1—3. Court shall not in its sentence specify place to which convict shall be transported; but (2) Governor General in Council shall appoint places for transportation, and Local Government shall give order for convicts being sent to such places; and (3) convict until sent shall be dealt with as if sentenced to imprisonment, &c., and time of imprisonment shall count as part of sentence.

4. Person undergoing transportation sentenced again to transportation need not be removed.

5. Act not to affect the provisions of Act XXIV. of 1855.

An Act relating to the Transportation of Convicts.

Repealed by Act XVII., 1862.

STAMP ACT.

Act No. XXXVI. of 1860.

[*Received the assent of the G. G. on the 2nd August*, 1860.

Recites expediency of consolidating and amending the Law.

1. Repeals Bengal R. 12, 1826, and corresponding registered R. 12th July, 1827; 10, 1829. Madras R. 13, 1816; Bombay R. 18, 1827; 3 and 6, 1828 8, 1830; 3, 1831; 14, 1831, and Act X. of 1859, Section 37, relating to Bengal.

2. Deeds, &c., of the kinds specified in Schedule A. shall be stamped according to Schedule.

3. Persons drawing bills, &c., or being party to any deed, &c., on paper un-stamped or insufficiently stamped according to Schedule A., shall be liable to prescribed penalty.

4. Governor General in Council to prescribe the form, &c., of stamps, mode of impressing, &c., by orders to be published in "Gazette."

5, 6. Stamps may be impressed or affixed, and half anna postage stamps may be used on receipts, drafts, orders, &c., until Governor General in Council disallow, (6) such stamps to be cancelled by writing thereon the initials of the user, under prescribed penalty.

7—9. Foreign Bills payable both in and out of India shall be subject to stamp duties, the former by adhesive stamps to be affixed (9) by holder and (8) every Bill drawn out of British Territory in India to be deemed Foreign; and (9) affixed stamp to be cancelled by endorser, &c., subject to penalty.

10. Persons issuing Bills purporting to be in sets and not issuing the whole set on proper stamps to be subject to penalty.

11. Persons fraudulently using adhesive stamp which has been used, or committing any fraud against the Act not specially provided for, to be liable to penalty.

12. No deeds, &c., unless properly stamped, shall be received in evidence or recognized for any purpose by public Officer; but this not to apply to deeds &c., offered in evidence in Criminal proceeding.

13. Deeds, &c., insufficiently stamped from accident, ignorance, inadvertence, mistake, &c., may be properly stamped on application to Collector, subject to a penalty (2) of the amount deficient, and treble that if brought within thirty days after execution, and of five times that amount within six months, and after that twenty times the deficient duty; (3) but the correction of the Stamp to be at discretion of the Collector, subject to an appeal if he refuses; and (4) in case of deeds offered in evidence in Civil Court, the deficient and penal duty may be paid into Court; and (5) such payment shall be entered in a book and endorsed on deed, &c., and moneys received shall be returned to Collector who may make order for payment thereof; (6) except on these terms no deed, &c., shall be received; and (7) incidental costs shall be paid by party offering the deed, &c.; and (8) Government shall not be responsible for loss, &c. These provisions not to apply to bills or money orders.

14. No sum shall be recovered under any deed, &c., beyond the amount for which the stamp is sufficient.

15. Persons receiving payment to give stamped receipt, under penalty for default, and the drawers, makers, &c., of bills, drafts, &c., to bear the expense of stamps.

16. Except in Supreme Court, no kind of instrument, &c., mentioned in Schedule B. shall be filed, &c., in any Court unless properly stamped.

17. The Schedules of this Act to be of same force as if in body of Act.

18. The Governor General in Council may direct lower rates to be taken in any District than are prescribed in the Act, on all or any of the deeds, &c., specified in Schedule, or may altogether exempt any District.

19. Empowers the Local Governments to appoint Officers and assign Districts to them.

20. Vendors of stamps to have their license, &c., stuck up in place where they carry on their business.

21, 22. Vendor of Stamp to write on such Stamp name of person to whom issued, date and his own signature, subject on default to penalty, and (22) to fine, imprisonment, &c., for false note thereof.

23—25. Obliges vendor of Stamps to deliver Stamp on demand and tender of value subject on default to penalty, and (24) shall not demand more than the authorized price; subject (25) on breach of duty to imprisonment, fine, &c.

26. Vendor shall not sell old Stamps after new ones are prescribed by Governor General in Council.

27—30. Vendor refusing, &c., to render accounts according to his Bond may be proceeded against by Collector, &c.; and (28) on resignation of his Office, if he does not account, &c., shall be liable to fine, besides (according to circumstances) proceeding for embezzlement; and (29) upon death of vendor, his executor, &c., not accounting, &c., may be fined; and in all the above cases the sureties may be proceeded against.

31. No person not being a licensed vendor shall sell Stamps, except adhesive.

32. Damaged and spoiled stamps of unexecuted deeds, &c., and stamps which have become of no avail in manner specified may be returned to Collector and new Stamps given by him, except Bill Stamps of which one of a set has been delivered; (2) any owner of damaged and spoiled Stamps may within a year apply to Collector for new Stamps in lieu.

33. Any person fraudulently counterfeiting any Stamp, or altering its apparent value or issuing or using counterfeit, &c., shall be liable to imprisonment, &c., or transportation, &c.

34. No J. P. shall receive or attest any affidavit not made for purpose of being filed, &c., unless written on proper Stamp, &c.

35—37. Deeds of sale of any lands shall state the true consideration subject to a penalty of 500 Rs. and penal duty, &c., and (36) any person inserting less than full amount shall be liable to penalty; no proceedings to be taken under this Act except by a Government Officer.

38, 39. J. P. and Magistrate to have jurisdiction except under Section 33, and (39) under that Section the Supreme Court or Sessions Judge.

40. The Officer or Court by which the fine is adjudicated may issue warrant to levy it, &c.

41. Interprets the words "Stamp," "Bill of Exchange," "Value."

42. Act to come into force from 1st October, 1860.

Schedule A. as to deeds, instruments and writings requiring Stamps and what Stamps. Schedule B. as to duties chargeable on Law proceedings.

An Act to consolidate and amend the law relating to Stamp Duties.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Stamp Duties, it is enacted as follows:

Repeal of Regulations.

I. From the time when this Act shall come into force, Regulation XII., 1826 (*for raising and levying Stamp Duties within the Town of Calcutta*) with the corresponding Regulation enacted on the 14th June, 1827, and registered in the Supreme Court at Calcutta on the 12th July, 1827, and Regulation X., 1829, of the Bengal Code (*for consolidating into one Regulation, with modifications, the existing enactments relating to the collection of Stamp Duties*), Regulation XIII., 1816, of the Madras Code (*for modifying and amending the Rules before enacted regardiny Stamped Paper, and Stamped Cadjans; and for consolidating the Fees payable on the institution of suits, and on exhibits and summonses for witnesses, with the Duty levied by means of Stamps*), Regulation XVIII., 1827, of the Bombay Code (*for levying a Stamp Duty on certain papers within the Territories subordinate to the Presidency of Bombay*), Regulation III., 1828, of the same Code (*for subjecting to the Stamp Duty certain Plaints and other Papers exempted therefrom under Regulation XVIII. of* 1827), Regulation VI., 1828, of the same Code (*for extending in the same manner as in suits before the Courts of Civil Judicature, Stamps to suits cognizable by Collectors under the operation of Chapter VIII., Regulation XVII., of* 1827, *or any other now in force*), Regulation VIII., 1830, of the same Code (*for changing the Counter-Stamp to be impressed on Stamped Paper and other material*), Regulation III., 1831, of the same Code (*for subjecting to the Stamp Duty copies of decrees passed by Native Commissioners, exempted therefrom under Regulation XVIII. of* 1827), Regulation XIV., 1831, of

the same Code (*for rescinding that part of Section VII., Regulation XVIII., of* 1827, *which requires all Stamped Paper to be endorsed with the Official signature of some person belonging to the Office of Superintendent of Stamps, and prescribing how that duty shall henceforth be performed*), and Section XXXVII. of Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), are repealed, except in so far as they rescind other Regulations or parts of other Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force. [Repealed by Act LI., 1860, s. 1.]

Stamp Duty payable under Schedule A.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A. annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

Penalty for drawing, &c., unstamped or insufficiently stamped Bill of Exchange, &c.

III. If any person shall draw, accept, endorse, negotiate, pay, or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party, to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A., such person, so offending, shall forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

Governor General in Council to prescribe the form of Stamps to be used, &c.

IV. The Governor General in Council shall prescribe the form and material of the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereon the value thereof under the provisions of this Act, and may, from time to time, alter and vary such order. All orders made by the Governor General in Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

Receipt Stamps, how to be denoted.

V. The Duty imposed by this Act on every Receipt, and on every Draft or Order for the payment of money on demand, and bearing the date on which the Draft or Order is made, may be denoted by a Stamp impressed upon the paper whereon any such Instrument is written, or by an adhesive Stamp affixed thereto. It shall be lawful, until the Governor General in Council shall direct to the contrary by an order to be published in the Gazette, to use a Postage Stamp of the value of half anna on every Receipt, Draft, or Order for which a half anna Stamp is required by this Act.

Obliteration of adhesive Stamp when used.

VI. In any case where an adhesive Stamp shall be used for the purpose aforesaid on any Receipt or upon any Draft or Order chargeable with the Duty of half anna or of one anna by this Act, the person by whom such Receipt shall be given or such Draft or Order signed or made, shall, before the Instrument shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name, or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of, and so that the same may not be again used; and if any person who shall write or give any such Receipt or discharge or make or sign any such Draft or Order with any adhesive Stamp thereon, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

Stamps on Foreign Bills of Exchange, &c.

VII. The Duties imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out of the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be payable within those Territories, or shall therein be endorsed, transferred, or otherwise negotiated, wheresoever the same may be payable; and the Duties so imposed on Bills drawn out of the British Territories in India, shall be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed. [Repealed as respects Duties by Act LI., 1860, s. 2.]

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

VIII. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall

be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same may have been drawn within those Territories.

The holder of a Bill drawn out of the British Territory to affix an adhesive Stamp thereon before negotiating it.

IX. The holder of any Bill of Exchange drawn out of the British Territories in India and not having a proper adhesive Stamp affixed thereon as herein directed, shall, before he shall present the same for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereon a proper adhesive Stamp for denoting the duty by this Act charged on such Bill; and the person who shall endorse, transfer, and negotiate such Bill shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the same as his endorsement, his name or the name of his firm, and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such other manner as to show that the Stamp has been made use of and so that the same may not be again used; and if any person shall present for payment or shall pay or endorse, transfer or negotiate any such Bill as aforesaid, whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or neglect so to do, such person so offending in any such case shall be liable to the penalty prescribed in Section III. of this Act, and no person who shall take or receive from any other person any such Bill as aforesaid either on payment or as a security or by purchase or otherwise, shall be entitled to recover thereon or to make the same available for any purpose whatever unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereon and cancelled in the manner thereby directed.

Penalty for negotiating such such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

Penalty for drawing and issuing or transferring or negociating Bills purporting to be drawn in a set of three and not drawing the whole number of the set. Penalty on taking or receiving such Bills.

X. If any person shall, within the British Territories in India, draw and issue any Bill of Exchange payable out of the British Territories in India, purporting to be drawn in a set of three, and shall not draw and issue, on paper duly stamped as required by law, the whole number of Bills which such Bill purports

the set to consist of, or if any person shall within the British Territories in India transfer or negotiate any such Bill of Exchange as aforesaid purporting to be drawn in a set of three, and shall not at the same time transfer or deliver on paper duly stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, every such person so offending in any of such cases shall be liable to the penalty prescribed in Section III. of this Act; and if any person shall take or receive in the British Territories in India any such Bill as aforesaid either in payment, or as a security, or by purchase or otherwise, without having transferred or delivered to him duly stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, he shall not be entitled to recover on any such Bill or to make the same available for any purpose whatever.

Penalty for use of adhesive Stamp which has been removed from a Receipt, &c.

XI. If any person shall affix or use any adhesive Stamp which to his knowledge shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange shall have been written, to or for any Receipt, Draft, Order, or Bill of Exchange, or any paper whereon any such Receipt, Draft, Order, or Bill of Exchange shall be or be intended to be written; or if any person shall do or practise or be concerned in any fraudulent act, contrivance, or device whatever not specially provided for by this or some other Act, with intent to defraud the Government of any Duty imposed by this Act upon Receipts or upon Drafts, Orders, or Bills of Exchange —every person so offending in any of the said several cases shall forfeit a sum not exceeding two hundred rupees.

Effect of a Writing not duly stamped.

XII. Except as otherwise provided by this Act, no Deed, Instrument, or Writing for which any Duty shall be payable under Section II. of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp of a value not less than that

indicated to be proper for it by the said Schedule. Provided that every Deed, Instrument, or Writing liable to Stamp Duty shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by law impressed thereon or affixed thereto.

Proviso.

XIII. *First.*—Deeds, Instruments, and Writings executed on unstamped or insufficiently stamped paper from accident, ignorance, inadvertence, mistake, or from other unavoidable cause, may be impressed with the requisite Stamp or Stamps, on application being made to the Collector of Stamp Revenue, after payment of so much as will make up the proper amount of Stamp Duty, and the penalties hereinunder stated, or such mitigated penalty as the Local Government or any Board or Officer authorized by the Local Government may prescribe. Provided always that the payment of such penalty shall exempt the person making the same from any other penalty provided by this Act for such neglect or omission, and that if any such other penalty shall already have been imposed, then the same shall be taken as far as it goes in reduction of any penalty arising under this Section.

Deeds inadvertently executed on unstamped or insufficiently stamped paper may be stamped on payment of proper Stamp Duty and penalty.

Proviso.

Second.—If the Deed, Instrument, or Writing executed as aforesaid on unstamped or insufficiently stamped paper be brought within thirty days from the date of execution, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and treble the amount of the deficient Duty; if brought after thirty days from the date of execution, but within three months from that date, or if brought within six months from the time of this Act coming into force, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and five times the amount of the deficient Duty, or if not brought within the two periods last mentioned, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and twenty times the deficient Duty.

Penalty if executed on unstamped or insufficiently stamped paper and brought to be stamped within thirty days of execution.

Penalty if brought within three months of execution or six months of Act coming into force.

Penalty if not brought within the two periods last mentioned.

Third.—It shall be the duty of the Collector of the Stamp Revenue of the District, or other Officer as aforesaid, to determine whether, upon payment of the penalties mentioned in the last preceding Clause, the requisite Stamp shall be impressed on any Deed, Instrument, or Writing which shall have been executed on unstamped or insufficiently Stamped paper, and the decision of the Collector shall be conclusive and final, except in cases in which he shall refuse to allow the Deed, Instrument, or Writing to be stamped. The Board of Revenue or other general controlling Revenue Authority may, however, upon petition, order such penalty to be mitigated, and if paid, may order such part of it as they may consider proper to be returned.

Collector to determine whether, on payment of penalty, a Deed, &c., executed on unstamped or insufficiently stamped paper shall be stamped.

In what cases decision of Collector final.

Mitigation of penalty.

Fourth.—Sections 130 and 131 of Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) are hereby repealed, and in lieu thereof, it is enacted as follows:—In all cases under this Act in which a Collector may impress a Stamp on payment of the proper amount of Stamp Duty and a penalty, any Civil Court may receive in evidence any Deed, Instrument, or Writing, which might be so impressed, on payment into Court of the proper amount of Stamp Duty, and the penalty as by this Section imposed.

In what cases Civil Court may receive Deed, &c., on payment of Stamp Duty and penalty.

Fifth.—An entry of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by a Judge of the Court. The Court shall at the end of every month make a return to the Collector of the Stamp Revenue of the District, of the moneys (if any) which it has so received, distinguishing between the moneys received by way of penalty and those received by way of Duty, stating the number and title of the suit and the name of the party from whom such moneys were received, and the date, if any, and description of the document, for the purpose of identifying the same, and the Court shall pay over the said moneys to such Collector or to such

Procedure on payment under preceding Clause.

person as he may appoint to receive the same. And such Collector or other proper authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore mentioned, cause it to be Stamped thereon with a Stamp of the amount paid into Court on account of such Duty. All the provisions hereinbefore contained as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court.

No unstamped or insufficiently stamped Deed, &c., to be stamped except as aforesaid.

Sixth.—No deed, Instrument, or Writing executed on unstamped or insufficiently Stamped paper shall be Stamped at any time after the execution thereof, except as aforesaid.

Cost of transmitting Deed, &c., to be Stamped, by whom to be paid.

Seventh.—The cost of transmitting all Deeds Instruments, and Writings required to be Stamped under this Section, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deeds, Instruments, and Writings Stamped.

Government not responsible for loss or damage to Deed, &c.

Eighth.—The Government shall not be responsible for any loss or damage which may occur in respect of any Deed, Instrument, or Writing entrusted to the Collectors of Stamp Revenue, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless that person shall wilfully, fraudulently, or by gross negligence, cause such loss or damage.

Provisions of this Section not to extend to Bills of Exchange, &c., drawn in India.

But no part of this Section shall extend to Bills of Exchange or other forms of orders for money drawn within the British Territories in India, or to Receipts for money.

What sum recoverable under a Writing bearing an optional Stamp.

XIV. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing for which an optional Stamp is indicated to be proper by the said Schedule, than the largest sum for which, if specially stated in a Deed, Instrument or Writing of the same denomination, the Stamp actually used under the option so given would be of sufficient value. And no such Deed, Instrument or Writing, shall be held by any Court of Justice to be valid in respect to any sum of money

larger than that for which the Stamp on the said Deed, Instrument, or Writing would be sufficient.

Expense of providing Receipt Stamps, &c.

XV. Every person receiving payment of any sum of money, the Receipt for which under this Act requires a Stamp, shall, if required give a Receipt bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of all Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, and other Orders and Obligations for the payment of money made or drawn in the British Territories in India (not being Bonds, or Instruments, or Writings bearing the attestation of one or more witnesses,) shall be borne by the person making or drawing the same.

Stamp Duty payable under Schedule B.

XVI. Except within the local limits of the jurisdiction of the Courts established by Royal Charter, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B. annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Office with respect to which Court or Office such Instrument or Writing is required by Schedule B. to have a Stamp, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp prescribed as aforesaid by the Governor General of India in Council, and of a value not less than that indicated to be proper for it by the said Schedule B.

Effect of provision contained in the Schedules.

XVII. Every provision contained in the Schedules annexed to this Act shall be of the same force as if it were contained in the body of the Act.

Governor General in Council may lower rates of Stamp Duty in any District, or altogether exempt the same, &c.

XVIII. The Governor General in Council may, by an order to be published in the "Calcutta Gazette," direct that in any District such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments, or Writings specified in the Schedules to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Provided that this Section shall not extend to Bills of Exchange or other Instruments classed as Bills of Exchange.

Proviso.

XIX. The Local Executive Government may appoint Officers for the collection of the Stamp Revenue, and may prescribe the duties of such Officers and may assign Districts to such Officers, and may license or cause to be licensed vendors of Stamps, and may direct how and under what conditions Stamps may be supplied to such vendors for sale.

Appointment of Officers for collection of Revenue.

Licensed Stamp vendors.

XX. to XL. Repealed by Act X., 1862, the matter of these Sections not being within the exception of that Act.

XLI. Throughout this Act, and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; the term "Bill of Exchange" shall include a Hoondee or any other Instrument of a like nature; and by the "value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other materials.

Interpretation.

"Stamp."

"Bill of Exchange."

"Value."

XLII. This Act shall come into force from the 1st of October, 1860.

Commencement of Act.

SCHEDULE A.

Specifying Deeds, Instruments, and Writings which require Stamps, and indicating the proper Stamps for those Deeds, Instruments, and Writings.

	Proper Stamps.
1. Agreement, Ikrar, or any Minute or Memorandum of an Agreement, such Agreement, Minute, or Memorandum not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the party—	
If relating to matters capable of valuation, and with the value stated	The same Stamp as for a Bond for the payment of the amount of the value stated.
If for an annual or any periodical payment	The same Stamp as for a Bond for the amount of ten years' payment, or of the total sum secured if less.
If for the performance of any legal act, or for a purpose not restricted to, nor specifying any amount	An optional Stamp.—See Section XIV. of the Act.

	Proper Stamps.
Agreements for loans by Bankers made for short periods upon the deposit of Notes or other Securities of the Government of India, with or without a deposit of the Acceptance or Promissory Note of the borrower, provided that no such agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note, or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case such loan shall not exceed one month, the uniform Stamp of	2 Rupees.
And in case such loan is for a period exceeding one month, or not exceeding three months	4 Rupees.
EXEMPTIONS.	
Agreement for the hire of any labourer, Artificer, Manufacturer, or menial Servant.	
Agreement, Memorandum, or Letter made for or relating to the sale of any Goods, Wares, or Merchandize.	
2. Affidavits and solemn declarations not made for the immediate purpose of being filed, read, or used in any Court of Law, per sheet	1 Rupee.
3. Assignments if not of the nature specified under the heads of Conveyances and Settlements, nor specially exempted—	
In cases where the Assignment is of any interest secured by an original Deed or Instrument on a Stamp of a value less than eight Rupees.	The same Stamp as the original Deed.
In other cases	8 Rupees.
EXEMPTION.	
All transfers by mere endorsement of Bills of Exchange, Promissory Notes, and other negotiable Instruments; and of Bills of Lading; and transfers by Assignment of Policies of Assurance.	
4. Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoondees, and other orders and obligations for the payment of money, not being Bonds, or Instruments, or writings, bearing the attestation of one or more witnesses—	
If payable to the bearer or to order on demand, and bearing the date on which the draft or order is made, except Bank Notes payable to bearer on demand ...	*Rupees.* 0 *Annas.* 1
If the sum payable does not exceed 50 Rupees	0 0½

				Proper Stamps.			
				Inland and Foreign, if drawn singly.		Foreign, if drawn in sets of three, each to be Stamped.	
If payable at any period not exceeding one year after date or sight, then—							
Bills	not exceeding Rs.		Rs. 100	Rs. 0	As. 1	Rs. 0	As. 1
Above	100	and not exceeding	250	0	3	0	1
„	250	ditto	500	0	6	0	2
„	500	ditto	1,000	0	12	0	4
„	1,000	ditto	2,500	1	8	0	8
„	2,500	ditto	5,000	3	0	1	0
„	5,000	ditto	10,000	6	0	2	0
„	10,000	ditto	20,000	12	0	4	0
„	20,000	ditto	30,000	18	0	6	0
„	30,000 and upwards,			24	0	8	0

5. Any of the Instruments described in No. 4, payable at a period exceeding one year after date or sight ... ... — The same Stamp as for Bonds for the payment of the same amount

6. Bills of Lading of or for any Goods, Merchandize, or effects to be exported ... — *Rupees.* 0 *Annas.* 4 for each part of every set.

7. Bills of Sale—See Conveyance and Mortgage.

8. All Bonds or other obligations for the payment of any definite or certain sum of money not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—

				Rupees.	*Annas.*
If for any sum not exceeding	Rs.		Rs. 50	0	4
Above	50	and not exceeding	100	0	8
„	100	ditto	200	1	0
„	200	ditto	300	2	0
„	300	ditto	500	4	0
„	500	ditto	700	5	0
„	700	ditto	1,000	6	0
„	1,000	ditto	2,000	10	0
„	2,000	ditto	3,000	15	0
„	3,000	ditto	5,000	25	0
„	5,000	ditto	10,000	35	0
„	10,000	ditto	20,000	60	0
„	20,000	ditto	40,000	100	0
„	40,000	ditto	60,000	125	0
„	60,000	ditto	80,000	150	0
„	80,000	ditto	1,00,000	200	0
And for every further part of a lac,				100	0
And for every further full lac ...				200	0

9. Bonds or other obligations, concerning respondentia and bottomry, ... — The same Stamp as for a common money Bond for the like amount.

	Proper Stamps.
10. Bonds or other obligations given as security for the transfer of Government Securities or Stock of any public Company or for the delivery or accounting for any matter or thing capable of being valued	The same Stamp as for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.
11. Bonds or other obligations for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond whether for a fixed or for an indefinite period	The same Stamp as for a Bond for the payment of a sum equal to ten times the yearly payment or of the total sum secured, if less.
12. Bonds or other obligations when the amount of the money to be secured is not specified	An optional Stamp—See Section XIV. of the Act.
When the amount is limited to a certain sum	The same Stamp as for a Bond for the payment of such limited sum.
13. Bonds or other obligations for the due execution of an office, or work taken by individuals, and all other Bonds not otherwise specially provided for	An optional Stamp—See Section XIV. of the Act.
14. Bonds or other obligations taken as Collateral security with some Deed or Instrument executed on the Stamp prescribed for Conveyances or Money Bonds, or as security for the performance of any other contract, covenant, or agreement not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand ..	The same stamp as the Deed, Instrument, Contract, Covenant, or agreement, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
15. Security Bonds or other obligations which may be taken by or by order of any Court, Collector, or other Judicial or Revenue Authority, also Razeenamahs, Soolohnamahs, and Rufanamahs, filed in any suit pending in a Court of Justice.	To be charged as specified, and prescribed in Schedule B.
16. Charter-parties, or any agreement or contract for the Charter of any Sea-going Ship or Vessel, or any memorandum, letter, or other writing between the Captain, Master, or Owner of any such Ship or Vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such Ship or Vessel	2 Rupees.
17. Composition Deeds or other Instruments of composition between a debtor or debtors and his, her, or their creditors	8 Rupees.
18. Contract and deeds, if not otherwise specially provided for	As agreements.
19. Conveyances or deeds or Instruments of any kind or description whatsoever, executed for the sale or transfer for a	

				Proper Stamps.	
consideration, of any lands, tenements, rents, annuities, or other property, real or personal, moveable or immoveable, or of any right, title, or claim to or upon, or interest in, any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his, her, or other directions—					
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees				*Rupees.* 1	*Annas.* 0
	Rs.		Rs.		
Above	100	& not exceeding	200	2	0
„	200	ditto	400	4	0
„	400	ditto	800	8	0
„	800	ditto	1,200	12	0
„	1,200	ditto	2,000	20	0
„	2,000	ditto	3,000	30	0
„	3,000	ditto	4,000	40	0
„	4,000	ditto	5,000	50	0
„	5,000	ditto	7,500	75	0
„	7,500	ditto	10,000	100	0
„	10,000	ditto	20,000	150	0
„	20,000	ditto	40,000	200	0
„	40,000	ditto	60,000	300	0
„	60,000	ditto	80,000	400	0
„	80,000	ditto	1,00,000	500	0
And for every further Or part thereof			50,000	200	0
				100	0
Conveyances when the consideration is annuity				The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity.	
Conveyances of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance				The same Duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.	
If no value appear on the face of the Conveyance				Fifty Rupees.	

NOTE.—When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In all cases, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be

	Proper Stamps.
the maximum Stamp for Collateral Deeds), and all such Collateral Deeds shall specify by their contents which other is the principal Deed by which the conveyance has been effected, certifying that it is executed on the proper Stamp.	
Transfers of the shares of any Banking Corporation or any Joint Stock Company, by endorsement or otherwise, when the fully nominal value of the share so transferred does not exceed 100 Rupees per share	*Rupees.* 0 *Annas.* 4
When the value exceeds 100 Rupees and not 200 Rupees	0 8
When the value exceeds 200 Rupees and not 300 Rupees	0 12
When the value exceeds 300 Rupees and not 400 Rupees	1 0
And for every additional value of 100 Rs. a further Duty of 4 annas, and for the transfers of every quarter or half of any such share, a corresponding rate of Duty.	
Exemption.	
All transfers of subscription to any of the Government Loans or other Government Securities.	
20. Co-partnership.—Deeds or other Instruments of	8 0
21. Copies.—Copy of Extract of any Deed or Instrument attested to be a true Copy or Extract, and furnished for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby	The same Duty as prescribed for the original Deed by this Act.
22. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, deed, or other instrument, per sheet	*Rupees.* 0 *Annas.* 8
23. Copy or Extract of any Deed, Instrument, Schedule, Receipt, or other matter annexed to any agreement, contract, bond, deed, or other instrument, per sheet	0 8
24. Copies authenticated of any records, letters, accounts, statements, reports, or other writings, furnished to individuals from any of the Public Offices of Government, per sheet	0 8

	Proper Stamps.
For copies of Revenue and Judicial Papers to be given from the Courts of Justice, Revenue Kutcherries, &c. ...	See Schedule B.
Exemption.	
Copies of papers which Public Officers are directed by any law or general regulation to make, require or furnish, for which Stamps are not specially required by this Schedule.	
25. Deeds of gift and dower, whether to take effect on the instant, or at a future period, determinate or indeterminate	The same Stamp as for Conveyances.
26. Deeds of any kind not otherwise particularized in this Schedule ...	As Agreements.
27. Exchanges.—Any Deed or Instrument whereby any real property shall be conveyed or surrendered in exchange for other property	The same Stamp as for Conveyances.
28. Engagements to cultivate, produce, provide, or derive any article of commerce in consideration of advance made... ...	Shall be charged on the amount advanced at the rate of Bonds.
29. Leases.—Any lease made in perpetuity, or for a term of years, or period determinable within one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent	The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

30. Any lease of lands, houses, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

Where the rent calculated for a whole year shall not exceed 24 Rupees ... ...

	Rs.		Rs.	When the lease is for a period not exceeding one year. Rs.	As.	When the lease is for a period exceeding one year. Rs.	As.
Above	24	and not exceeding	50	0	4	0	8
"	50	"	100	0	8	0	12
"	100	"	250	0	12	1	0
"	250	"	500	1	0	2	0
"	500	"	1,000	2	0	4	0
"	1,000	"	2,000	4	0	8	0
"	2,000	"	4,000	8	0	16	0
"	4,000	"	6,000	16	0	32	0
"	6,000	"	10,000	24	0	48	0
"	10,000	"	25,000	40	0	80	0
"	25,000	"	50,000	100	0	200	0
And for every additional 25,000, or part thereof				200	0	400	0
				100	0	200	0

31. Any lease of lands, houses, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium ... ... — The same Stamp as for a lease for a period not exceeding one year.

	Proper Stamps.
32. Any Lease of lands, houses, or other real property, stipulating for a rent, and granted in consideration of a fine or remium	A Stamp of value equal to the joint values of the Stamps for a Conveyance in consideration of the fine, and a lease for the rent.
33. The Counterpart of any Lease, or a Kubooleut or the like	The same Stamp as for the lease.
EXEMPTION.	
All Leases, Pottahs, and Kubooleut, executed and exchanged with ryots and other actual cultivators of the soil, provided that no fine or premium be paid and no Security Bonds executed as part of the same transactions.	
(For Madras and Bombay.)	
Every Lease and its counterpart (Pottah and Kubooleut) or other engagement contracted between landlord and tenant, relative to lands subject to the payment of Revenue to Government.	
34. Letters, or powers of Attorney, Mooktarnamahs, &c., not being of the kinds provided for in Schedule B.—	
For the performance of any special act or acts, or of the acts connected with any one particular suit, case, or transaction ...	*Rupees.* 0 *Annas.* 8
General, that is not restricted as above	4 0
Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act	The same Stamp as for a Bond.
If given as such collateral security as above mentioned	5 Rupees.
NOTE.—For Wakalutnamahs, Mooktarnamahs, and other powers, required to be filed for the conduct of suits, regular or summary, or proceedings of any kind pending before the Courts of Judicature or before the Revenue Authorities	See Schedule B.
35. Letters of license from creditors to debtors	8 Rupees.
36. MORTGAGES.—Any deed of mortgage or of conditional sale with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due or to be lent thereupon; also any deed or contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time	The same Stamp as for a Bond for the payment of the amount due or lent.

	Proper Stamps.
37. Re-conveyance of mortgaged property...	The Stamp as for Assignments.
38. Release of an equity of redemption	The same Stamp as for Conveyances.
39. Deeds of mortgage, or the like, given as security for the transfer of Government Securities, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued	The same Stamp as for a Bond for the payment of the total amount assured, or for the *bonâ fide* value.
40. Deeds of mortgage given for the security of annuities for an indefinite period, such as life annuities	The same Stamp as for ten times the annual payment.
Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum	The same Stamp as for deeds of mortgage of such limited sum.
Where the total amount secured by the mortgage is unlimited	An optional Stamp—See Section XIV. of the Act.
Where a Bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed ...	The same Stamp as for the Bond or other Instrument, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
Where there are more deeds than one required to execute the mortgage in the manner desired by the parties, then for every other Deed than the principal Deed, provided the original Deed has been duly stamped	The same Stamp as for the principal Deeds, if of value not exceeding eight Rupees; in other cases a Stamp of eight Rupees.
41. Mortgages, assignments, or acknowledgements granted for loans or advances made on the deposit of Government Securities, bullion, plate jewels or other goods	The same Stamp as for Promissory Notes.
42. Partitions by private agreement or made by Public Officers of estates or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for every such sharer's copy of the deed of partition—	
When the sharer's portion does not exceed one hundred Rupees in value	*Rupees.* 0 *Annas.* 8
Rs. Above 100 and not exceeding Rs. 200	1 0
" 200 ditto 400	2 0
" 400 ditto 600	4 0
" 600 ditto 800	6 0
" 800 ditto 1,000	8 0
And for every additional four hundred Rupees, or part thereof	2 0

	Proper Stamps.
When the subject of the partition, consisting either wholly or in part of other property than money, any money, not being part of such subject, is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject ...	A Stamp of value equal to the joint values of the Stamp which would have been required had the subject of partition been actually divided with the just proportion, and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.
43. Policy of Assurance or Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or lives, or upon any event depending upon any life or lives—	
For every sum of one thousand Rupees and also for each and every fractional part of one thousand Rupees	*Rupees.* 0 *Annas.* 8
44. Policy of Insurance of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured, if the whole sum insured shall not exceed one thousand Rupees	0 8
If the sum insured exceed one thousand Rupees, then for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist	0 8
Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees	1 0
If the sum insured exceeds one thousand Rupees, then for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist	1 0
Promissory Notes	See Bills of Exchange.
45. Promissory Notes for the payment of any sum by instalments, that is Kistbundies, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain	The same Stamp as for a Bond for the payment of the whole amount.

	Proper Stamps.	
	Rupees.	*Annas.*
46. Protest of any Bill of Exchange or Promissory Note for any sum of money, or any Notarial Act not otherwise charged or exempted in this Schedule	2	0
47. Receipts or discharges given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged or acquitted, amounts to ten Rupees and does not exceed fifty Rupees	0	½
If the sum exceeds fifty Rupees ...	0	1

EXEMPTIONS.

(For the Presidency of Bengal.)

Receipts or discharges with respect to the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land tilled by him.

(For the Presidencies of Madras and Bombay.)

Receipts or discharges with respect to the rent of land paying Revenue to Government, granted to any tenant for the rent paid by him.

GENERAL EXEMPTIONS.

Receipts or discharges written upon Promissory Notes, Bills of Exchange, Drafts, or Orders for the payment of money, duly stamped.

Letters sent by the post acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other securities for money.

Receipts or discharges written upon or contained in any Mortgage Deed, or other security, or any Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby charged.

Receipts given for money deposited in any Bank, or in the hands of any Banker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares, in respect of calls upon any scrip

	Proper Stamps.
or shares of or in any Joint Stock or other Company, or proposed or intended Company, which such last-mentioned receipts or acknowledgments, by whomsoever given, shall be liable to the Duty charged upon receipts.	
48. Schedules referred to in any Agreement, Lease, Bond, Deed, or other Instrument, for every thousand words, or part thereof	10 Rupees.
49. Settlements, Marriage Settlements, &c., namely, any Deed or Instrument whereby any sum or sums of money, or any Government Securities, or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, in any manner whatsoever	The same Stamp as for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XIV. of the Act.

EXEMPTION.

Wills, Testaments, and the like, together with Deeds merely declaratory of trust or appointment, or apportionment or otherwise, in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

GENERAL EXEMPTION AND RULE.

Deeds, Instruments, and Writings of any kind, in which Government, or any Board, Commission, Court, or Public Officer may, in a public capacity, be a party, do not require Stamps.

NOTE.—The foregoing exemption does not extend to Deeds, Instruments, and Writings executed to or by the Court of Wards, Local Agents, or Officers acting under their authority, or to or by any Administrator General; neither does it extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees or orders of Court, in which cases the purchasers shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale (Byenamahs) executed on the proper Stamp.

Any Deed, Instrument, or Writing required by the foregoing Schedule to be Stamped, may be written on one or more Stamps, if the value of the Stamps used amounts to the value required by the Schedule.

Deeds for Securing gifts or dispositions made by previous Settlements, Deeds, or Wills.

SCHEDULE B.

Referred to in Section XVI. of the Act, containing the Specification of Duties chargeable on Law Papers.

	Proper Stamps.	
1. Bail or Security Bonds (Hazir or Fial Zamin) whether of specified amount or with a penalty of a specific sum of money or of indefinite amount, when furnished and filed under special order of a Civil Court or of any Revenue Officer exercising Judicial powers	To be charged as Petitions.	
When executed between individuals not by order of Court	To be charged as Bonds—See Schedule A.	
2. Copies of Judgments and Decrees when passed in any Court below the Sudder Dewanny Adawlut in all regular suits of which the value of the claim amounts to fifty Rupees, per sheet ...	*Rupees.* 1	*Annas.* 0
When passed in the Sudder Dewanny Adawlut in any regular suit, per sheet ...	4	0
3. Copies of Revenue and Judicial Proceedings or Orders, or Copies of Accounts, Statements, Reports, or the like filed on record and taken out for use or reference, or when left on proceedings in place of originals withdrawn, per sheet ...	0	8
And each sheet shall be of a size not exceeding that fixed for copy paper (No. 3 of the Stamp Office), and shall be written on one side thereof only.		
4. Mookhtarnamahs, Wakalutnamahs, and other powers, filed or presented for the conduct of suits, regular or summary, of cases or proceedings of any kind pending before any Civil or Criminal Court or before the Revenue Authorities—		
When presented to any Sudder Court...	2	0
When presented to any Board of Revenue or Board or Commissioner of Customs, Salt, and Opium	2	0
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer	0	8
EXEMPTIONS.		
Mookhtarnamahs executed by Officers or Soldiers of the Army.		
Counsel admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mookhtarnamah.		

	Proper Stamps.	
	Rupees.	*Annas.*
5. Petitions of appeal not being from an order rejecting a plaint or from a decree or order having by any law the force of a decree; petitions or applications presented to any Civil Court, in relation to any matter cognizable by such Court, shall be written upon Stamp Paper of the following value, namely—		
When presented to the Sudder Court ...	2	0
When presented to any Court below the Sudder Court	0	8
SPECIAL RULE FOR BENGAL.		
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to the Nizamut Adawlut or to the Board of Revenue or Customs, Salt, and Opium	2	0
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to any other Criminal Court or to any other Revenue Office,	0	8
GENERAL EXEMPTIONS.		
Petitions or applications presented to any Moonsiff's Court in relation to any suit or case of an amount or value less than fifty Rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X. of 1859.		
Application for the summons of a witness or other person to attend either to give evidence or to produce a document or in respect of the production or filing of any exhibit.		
Petitions of appeal presented to Magistrates against Chowkeedary assessment.		
Communications made to Magistrates in regard to Police matters not intended for record.		
Petitions to Collectors or Officers, making Settlements relating to matters connected with the assessment of lands, the ascertainments of rights, or to other matters affecting the settlement of the Government revenue on lands, if presented pending the formation of such settlements.		
Petitions to Boards or Commissioners of Revenue relating to the same.		
All petitions, applications, charges, and informations respecting crimes and offences.		

PROPER STAMPS.

Petitions from prisoners, convicts, persons under examination or otherwise in duress, or under restraint of the Court or its Officers.

EXEMPTIONS FOR THE PRESIDENCIES OF MADRAS AND BOMBAY.

No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to cases that fall within Regulation VI., 1828, of the Bombay Code.

6. PLAINT.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money or to obtain possession of any interest, matter, or thing—

SCALE FOR PLAINTS.

If the amount or value of the property claimed shall not exceed 16 Rs.

	Rs.		Rs	Rupees.	Annas.
				1	0
Above	16	and not exceeding	32	2	0
"	32	ditto	64	4	0
"	64	ditto	150	8	0
"	150	ditto	300	16	0
"	300	ditto	800	32	0
"	800	ditto	1,600	50	0
"	1,600	ditto	3,000	100	0
"	3,000	ditto	5,000	150	0
"	5,000	ditto	10,000	250	0
"	10,000	ditto	15,000	350	0
"	15,000	ditto	25,000	500	0
"	25,000	ditto	50,000	700	0
"	50,000	ditto	1,00,000	1,000	0
"	1,00,000			2,000	0

Petitions of plaint in suits instituted in the Courts of Collectors under Act X. of 1859 shall be subject to the foregoing Duties.

NOTE.—(*a.*) Within the Presidency of Bengal in suits for lands paying revenue to Government, if forming one entire Mehaul, or a specific portion thereof with a defined jumma, the value shall be assumed in the Ceded and Conquered Provinces, including Cuttack, at the amount of the annual jumma payable to Government on account of the Mehaul or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

	Proper Stamps.
(*b.*) Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suits may be preferred.	
(*c.*) Within the Presidency of Bombay, in suits for land paying Revenue to Government, the value of property sued for shall be calculated at the amount of the annual assessment.	
(*d.*) In suits for Lakhiraj, Enam, or rent-free land, the value shall be calculated at eighteen times the aggregate annual rent payable by the Ryots or other under-tenants of the land.	
(*e.*) In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in Malgoozaree land or for any other right or thing not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained and the like shall be valued at the amount claimed by plaintiff.	
(*f.*) If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in Act VIII. of 1859, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate authorising him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.	
7. Razeenamahs, Rufanamahs, Soolunamahs, or the like, that is to say—	
Any written application whereby, or according whereunto, a suit pending in a Civil Court shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer	To be charged as in Petitions.

	Proper Stamps.
Special Rule for the Presidency of Bombay. Suits cognizable before Collectors under the operation of Chapter VIII., Regulation XVII., 1827, as modified by Act XVI. of 1838, shall be subject to the same rules in regard to Stamps, as are in force as above for the Courts of Civil Judicature. General Rule.—If the subject matter of any plaint, written statement, or petition, cannot be conveniently comprised within one Stamp Paper of the value above prescribed, one or more additional pieces of paper may be used of the value required for Petitions.	

Amended by Act XL., 1860.

Repealed by Act LI., 1860, as to duties on Foreign Bills drawn out of British India.

NABOB OF THE CARNATIC.

Act No. XXXVII. of 1860.

[*Received the assent of the G. G. on the* 11*th August*, 1860.

Recites disallowance of Act XVI. of 1859 by the Secretary of State in C. for India and repeals that Act.

An Act to repeal Act XVI. of 1859.

Preamble. Whereas the Secretary of State in Council for India has, in pursuance of the power vested in him by law, disallowed Act XVI. of 1859, and has signified to the Governor General of India in Council, his disallowance thereof, it is enacted as follows:

Act repealed. Act XVI. of 1859 is hereby repealed.

NABOB OF THE CARNATIC.

Act No. XXXVIII. of 1860.

[*Received the assent of the G. G. on the* 11*th August*, 1860.

Recites doubts whether Act XXX. of 1858, Section XIV., &c., applied to certain debts contracted by Prince Azeem Jah Bahadoor and recites the repeal of Act XVI. of 1859, for removing these doubts.

1, 2. No debt contracted by Prince Azeem Jah Bahadoor, during the minority of the late Nabob, unless *bonâ fide* contracted for his use to be within recited Act; and in any investigation into such debt (2) Court may award costs.

3. Declares right of appeal to Her Majesty not affected.

An Act to explain Act XXX. of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic).

Expired.

INCOME TAX AMENDMENT.

Act No. XXXIX. of 1860.

[*Received the assent of the G. G. on the* 18*th August*, 1860.

1, 2. Income tax to be paid on Salaries of Government Servants employed in territories of Foreign Prince, &c., if paid by Government; at (2) same rates as other public Salaries.

3. Postponement of the operation of the I. T. Act by Governor General in Council shall not extend to Tax in respect of land, &c., interest, &c., office and Annuity or Salaries, &c., unless they are specially exempted by the order.

4—6. Oath of Secresy required by Section XXXIII. of the I. T. Act not to be required of *Ex-officio* Assessors for specified purpose; and (5) assessment already made by such un-sworn *Ex-officio* Assessors to be valid; and (6) such unsworn *Ex-officio* Assessors shall not be liable to actions, &c.

7. Excludes from the exemption in Section CXXVII. of the I. T. Act Officers, Non-Commissioned and Privates of Her Majesty's forces, &c., in Civil employment.

8. Repeals Section CXXVIII. of the I. T. Act.

9. Exempts Commissioned and Warrant Officers of Her Majesty's Navy and Indian Navy, and all Officers, &c., in the Marine Department, whose pay and allowances do not exceed those of a Lieutenant in Her Majesty's Indian Navy, and absolutely exempts all petty Officers and Seamen, &c., such exemption to extend to all who are liable to serve, &c., though not actually serving, but not to those out of service whose service if called for is optional.

An Act to amend Act XXXII. of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices).

Amended by Act XXVII., 1863, also by Act XXI., 1861. Expired.

STAMP DUTIES.

Act No. XL. of 1860.

[*Received the assent of the G. G. on the 11th September*, 1860.

Recites expediency of amending Act XXXVI. of 1860.

1. Suspends Act XXXVI., 1860, as regards Bills, Letters of Credit, Cheques, Promissory Notes, Hoondees and similar Instruments, &c., until 1st January, 1861.

2. Establishes penalty for fraudulent use of a once-used adhesive Stamp.

3. Empowers G. G. in C. to prescribe duty from 1st January, 1861, on transfer by endorsement of Bank and Joint Stock shares, until which date transfer by endorsement to be accompanied by a deed, &c., to be stamped with deed Stamp.

4. Re-establishes Article 4, Schedule A, Act XXVI., 1860, as respects inland and foreign Bills for the Bills, &c., mentioned in Sec. 1, from 1st January, 1861.

5. Repeals Act XXXVI., 1860, ss. 21, 22, and instead Stamp Vendor to write on back of specified Stamp name of purchaser, subject to penalty for writing false name.

6. Substitutes new Article 28 for existing one in Schedule A., of Stamp Act.

7. Act XXXVI., 1860, not to extend to Straits' Settlement.

8. This Act to be read as part of Act XXXVI., 1860.

An Act to Amend Act XXXVI. of 1860.

Preamble.

Whereas it is expedient to Amend Act XXXVI. of 1860. (*To Consolidate and amend the law relating to Stamp Duties*), it is enacted as follows:

Act not to come into force as regards Bills of Exchange, &c., payable after date or sight, until 1st January, 1861.

I. So much of the aforesaid Act as imposes duties on Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoondees, and other Orders and Obligations for the payment of money, not being Bonds or other Instruments or Writings bearing the attestation of one or more witnesses, if payable at any period not exceeding one year after date or sight, or otherwise relates to such Instruments, shall not come into force until the 1st of January 1861, or until such subsequent date as the Governor General in Council by an order in the Gazette previous to the said date may prescribe. Until that date all Regulations and Acts or parts thereof which are repealed by Section I. of the aforesaid Act shall remain in full force as regards all such Instruments as aforesaid. Provided that nothing in this Act shall affect Drafts or Orders for the payment of money on demand, and bearing the date on which the Draft or Order is made. [Repealed by Act LI., 1860, s. 1.]

Penalty for use of Postage Stamp which has been removed.

II. If any person shall affix or use any adhesive Postage Stamp, which to his knowledge shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange, or other Instrument requiring a Stamp under the said Act shall have been written, or from any letter or Packet, to or for any Receipt, Draft, Order, or Bill of Exchange or other Instrument so requiring a Stamp, or to or for any paper whereon the same shall be or be intended to be written, or to or for any letter or Packet—every person so offending shall forfeit a sum not exceeding two hundred Rupees.

Transfers of shares of Banking Corporations or Joint Stock Companies.

III. On and after the 1st January, 1861, or such subsequent date as the Governor General in Council, by an order in the Gazette, may prescribe, the Duty chargeable on the transfer of the shares of any Banking Corporation or Joint Stock Company which by any Law applicable to such Corporation or Company can be effected by simple endorsement, shall be denoted by an adhesive Stamp, or more than one adhesive Stamp; and all the provisions of the said Act relating to the use of adhesive Stamps on Bills of Exchange and the like shall be applicable to such adhesive Stamps used as aforesaid. Until the 1st January, 1861, or such subsequent date as may be prescribed, every transfer of the shares of any such Corporation or Company which can now be effected by endorsement, shall be accompanied by a Deed or Memorandum of transfer bearing a Stamp of the value prescribed for such transfers, otherwise the transferree shall be liable to a penalty not exceeding ten times the amount of the requisite Stamp.

Rates of Duties on Bills of Exchange, Letters of Credit, &c., payable within one year after date or sight.

IV. The rates of Duties prescribed in Article 4, of Schedule A. of the said Act for inland and foreign Bills payable at any period not exceeding one year after date or sight, shall, as soon as the Law imposing such Duties shall come into operation, be the rates of Duties to be imposed on Letters of Credit, Drafts, Cheques on Bankers, Promissory Notes, Hoondees, and other Orders and Obligations for the payment of money at any period as aforesaid, not being Bonds, Instruments or Writings bearing the attestation of one or more witnesses.

V. Sections XXI. and XXII. of Act XXXVI. of 1860, are repealed, and the following new Sections shall be read as Sections XXI. and XXII. of the said Act. [See Note to Act XXXVI., 1860, Section XXII to XL., which is applicable to this Section.]

Repeal of Sections XXI. and XXII. of Act XXXVI., of 1860, and substitution of the following.

VI. Article 28 of Schedule A. of the said Act is repealed, and the following words shall be read as Article 28 of the said Schedule of the said Act:—

Repeal of Article 28 of Schedule A., and substitution of new Article.

"28. Engagements to cultivate, produce, provide, or deliver any Article of Commerce in consideration of advance made. } Shall be charged on the amount advanced at the rate of Bonds."

Act XXXVI. of 1860 not to extend to the Straits' Settlement.

VII. The said Act XXXVI. of 1860 shall not extend to the Straits' Settlement.

Construction.

VIII. This Act shall be read and construed as part of Act XXXVI. of 1860.

EMIGRATION TO SAINT KITTS.

ACT NO. XLI. OF 1860.

[*Received the assent of the G. G. on the 3rd October*, 1860.

1, 2. Repeals Act XIV., 1839, as respects emigration from Calcutta, Madras and Bombay to St. Kitts; and (2) extends Act XXXI., 1855, to emigration to St. Kitts.

3. Act to take effect from time of proclamation.

An Act relating to the Emigration of Native Laborers to the British Colony of St. Kitts.

Repealed by Act XIII., 1864.

MOFUSSIL SMALL CAUSE COURTS.

ACT NO. XLII. OF 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

Recites expediency of establishing Small Cause Courts in Mofussil.

1, 2. Empowers Presidency Governments to establish and (2) fix territorial jurisdiction of S. C. Courts.

3, 4. Limits jurisdiction (as respects Causes) to debts, damages, and demands not exceeding 500 Rs., and excludes partnership accounts, except where balance

struck, shares under intestacy, and legacy, rent and other matter recoverable before revenue officer, and damages, unless special, for personal injury; and (4) as respects persons to inhabitants and persons working for gain within local limits of Court.

5. English to be the language of the Court, and Court to be subordinate to the Sudder.

6. No other Court to have jurisdiction over Suits cognizable in S. C. C., but saving existing jurisdiction of Magistrates, Assistants and Deputies, Village Moonsiffs and Punchayets (in Madras) Military Courts of Requests, Cantonment Joint Magistrates and Punchayets.

7, 8. Local Government to appoint the place, and (8) judge the time for holding sittings.

9. Summons to be for final disposal of suit, and only plaint to be written.

10, 11. Court may issue warrant against personal property of debtor generally or against specific personal property; and (11) execution afterwards may be issued by Civil Court against immoveable property.

12—14. Decisions and orders of Court to be final, but Court may grant new trial; and (13) may send statement to Sudder for its opinion on questions of law, &c.; but (14) may make final order contingent on and subject to opinion of Sudder.

15—19. Cases referred to Sudder shall be decided by full Bench; which (16) shall fix day for hearing; and (17) parties may appear by pleaders, and (18) Court shall send its decision under seal; and (19) Costs of reference to be costs in suits.

20. Empowers the Sudder to make Practice Rules for S. C. Court.

21. Code of Civil Procedure to apply to this Court except as is excepted.

An Act for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter.

Amended by Act XII., 1861. Repealed by Act XI., 1865, s. 2. References to the above Act in Acts previous to Act XI., 1865, are to be considered as references to Act XI., 1865.

MOFUSSIL SMALL CAUSE COURTS.—SPECIAL APPEAL.

Act No. XLIII of 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

1, 2. Abolishes special appeal in Suits under 500 Rs. cognizable in Small Cause Courts under Act XLII., 1860; but (2) case may be sent to the Sudder for opinion on questions of law, or the construction of a document.

An Act to amend Act VIII. of 1859 for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Repealed by Act XXIII., 1861.

GOVERNOR GENERAL.

Act No. XLIV. of 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

Recites expediency of G. G. visiting the N. W. Provinces.

1. Empowers the G. G. without his Council to exercise all the powers of the G. G. in C.

2. Empowers the Pres. in C. to exercise all the powers vested by any Act of the Government of I. in the G. G. in C.

3. Act to commence from notification in Gazette, and continue for 3 months only.

An Act for providing for the exercise of certain powers by the Governor General during his absence from his Council.

Expired.

THE INDIAN PENAL CODE.

Act No. XLV. of 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

Chapter I.

TITLE OF THE CODE.

Recites expediency of providing a general Penal Code for British India.

1—3. Act to be called the Indian Penal Code, and it shall take effect on and after 1st May, 1861, and (2) every person shall be liable to punishment under it, and not otherwise for acts contrary to its provisions, (3) if triable within, though the offences be committed without the territories, provided the jurisdiction to try is given by an Indian Act.

4. Extends the punishments of the Code to servants of the Queen for offences committed in Native States.

5. This Act not to repeal, vary, &c., any provisions of 3 and 4 Wm. IV., c. 85, nor of the Mutiny Act, nor of the Indian Navy Act, nor of any special or local law.

Preamble.

Whereas it is expedient to provide a General Penal Code for British India, it is enacted as follows:

1. This Act shall be called "The Indian Penal Code," and shall take effect on and from the 1st day of May, 1861,

Title and extent of operation of the Code.

throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island Singapore, and Malacca. [Postponed from 1st May, 1861, to 1st January, 1862, by Act VI., 1861.]

Punishment of offences committed within the said Territories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May, 1861.

Punishment of offences committed beyond, but which by law may be tried within, the territories.

3. Any person liable, by any law passed by the Governor General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed by a servant of the Queen within a Foreign allied State.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May, 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Certain laws not to be affected by this Act.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4 William IV., Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers, in the service of Her Majesty or of the East India Company, or of any Act for the government of the Indian Navy, or of any special or local law. [By Act IV., 1867, specified sections of this Code are made applicable to offences by any special or local law.]

CHAPTER II.

GENERAL EXPLANATIONS.

6. Every part of the Code is to be understood subject to the General Exceptions, contained in Chapter IV., so entitled, in connection with the "illustrations" in this Section given.

7. Expression or words once explained are used in every part of the Code in the same sense.

8—31. Explains the pronoun "he;" (9) the use of singular and plural number; (10) the word "man;" (11) "person;" (12) "public;" (13) "Queen;" (14) "Servant of the Queen;" (15) "British India;" (16) "Government of India;" (17) "Government;" (18) "Presidency;" (19) "Judge," with illustrations; (20) "Court of Justice," with illustrations; (21) "Public Servant," with specifications and by general definitions; (22) "moveable property;" (23) "wrongful gain;" "wrongful loss;" (24) "dishonestly;" (25) "fraudulently;" (26) "reason to believe;" (27) "possession;" (28) "counterfeit;" (29) "document," with illustrations; (30) "valuable security;" (31) "a will."

32. "Acts" to mean also omissions.

33. "Acts," "omissions," to apply to a series of acts and omissions.

34, 35. Joint offenders to be severally responsible; (35) if acting upon a common intent.

36. An omission to be construed as an act in estimating criminality.

37. In offences committed by means of several acts and several persons, any one of the acts is to be constructively a commission of the offences. Rule illustrated.

38. One and the same act may constitute several different offences.

39—51. Explains words "voluntarily," with illustration; (40) "offence;" (41) "special law;" (42) "local law;" (43) "illegal and legally bound;" (44) "injury;" (45) "life;" (46) "death;" (47) "animal;" (48) "vessel;" (49) "year;" "month;" (50) "section;" (51) "oath."

52. Good faith shall not be imputed where there was want of due care and attention.

Definitions in the Code to be understood subject to exceptions.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

(a.) The Sections, in this Code, which contain definitions of offences do not express that a child under seven years of age cannot commit such offences;

but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(6.) A, a Police Officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement, for he was bound by law to apprehend Z, and therefore the case falls within the general exception, which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Expression once explained is used in the same sense throughout the Code.

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Gender.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Number.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

"Man." "Woman."

10. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

"Person."

11. The word "person" includes any Company or Association, or body of persons, whether incorporated or not.

"Public."

12. The word "public" includes any class of the public or any community.

"Queen."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Servant of the Queen."

14 The words "Servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India, or any Government.

"British India."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

16. The words "Government of India" denote the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

"Government of India."

17. The word "Government" denotes the persons authorized by law to administer Executive Government in any part of British India.

"Government."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Presidency."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive Judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

"Judge."

Illustrations.

(a.) A Collector exercising jurisdiction in a suit under Act X. of 1859 is a Judge.

(b.) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(c.) A Member of a Punchayet which has power, under Regulation VII., 1816, of the Madras Code, to try and determine suits, is a Judge.

(d.) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice."

Illustration.

A Punchayet acting under Regulation VII., 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "Public Servant" denote a person falling under any of the descriptions hereinafter following, namely [To these descriptions

"Public Servant."

are added Railway Servants, by Act XXXI., 1867, under ss. 161 to 165]:—

First.—Every Covenanted Servant of the Queen.

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India or any Government.

Third.—Every Judge.

Fourth.—Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties.

Fifth.—Every Juryman, Assessor, or member of a Punchayet assisting a Court of Justice, or public servant.

Sixth.—Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority.

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement.

Eighth.—Every Officer of Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience.

Ninth.—Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every Officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty.

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common

pose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

"Wrongful gain" includes wrongful retention of property.

"Wrongful loss" includes the being wrongfully kept out of property.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

25. A person is said to do a thing "fraudulently" if he does that thing with intent to defraud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing, but not otherwise.

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Property in possession of wife, clerk or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practised.

"Counterfeit."

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

"Document."

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in a Court of Justice, or not.

Illustrations.

A Writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Cheque upon a Banker is a document.

A Power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A Writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

"Valuable security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of the Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act." "Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone.

34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits an offence.

Illustrations.

(a.) A and B agree to murder Z, by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts are separate.

(b.) A and B are joint gaolers, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c.) A, a gaolor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which, Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation, that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

"Offence."

40. The word "offence" denotes a thing made punishable by this Code [or by any special or local law, Act IV., 1867.]

"Special Law."

41. A "special law" is a law applicable to a particular subject.

"Local Law."

42. A "Local Law" is a law applicable only to a particular part of British India."

"Illegal." "Legally bound to do."

43. The word "illegal" is applicable to every thing which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

"Life."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.

"Animal."

47. The word "animal" denotes any living creature, other than a human being.

"Vessel."

48 The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property.

"Year."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

"Section."

50. The word "section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

"Oath."

51. The word "oath" includes solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made

before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

"Good faith."

52. Nothing is said to be done or believed in "good faith," which is done or believed without due care and attention.

CHAPTER III.

OF PUNISHMENTS.

53. The punishments under this Code are (1) death; (2) transportation; (3) penal servitude; (4) imprisonment, of two kinds, rigorous and simple; (5) forfeiture of property; (6) fine.

54, 55. Death may be commuted by the Government for any other punishment; (55) transportation for life for imprisonment not exceeding seven years.

56. Europeans and Americans not to be sentenced to transportation, but to penal servitude.

57. In calculation of fractions, transportation for life to be reckoned as equivalent to twenty years.

58. Offenders under sentence of transportation to undergo in the meantime rigorous imprisonment.

59. Authorises sentence to transportation, whenever sentence might be to seven years' imprisonment.

60. Court may sentence partly to rigorous and partly to simple imprisonment, whenever it may sentence to either.

61. Forfeiture of property to extend to any property acquired intermediately up to completion of the other punishment.

62. Court may sentence to forfeiture of property whenever the offence is punishable with death, and to forfeiture of rents and profits whenever the offender is sentenced to transportation or imprisonment for four years, or more.

63. Fines not limited by law shall not be excessive.

64—69. Court may sentence to imprisonment in case fine shall not be paid; but (65) not to exceed one-fourth of the principal term; and (66) this contingent imprisonment may be of either kind, but (67) if the offence be not punishable with imprisonment, the imprisonment in default of payment shall be on specified scale; and (68) payment of the fine shall terminate the imprisonment; or (69) a proportional part of the fine.

70. Fine may be levied at any time within six years, &c., and not to be extinguished by death.

71. Offences not to be split into the several acts of which they may be composed, but to be punished as in their entirety.

72. In case of doubt, whether an offence is A or B, punishment is to be awarded for the highest of the two.

73, 74. For offences liable to rigorous imprisonment, solitary confinement may be awarded on a specified scale, which (74) in no case shall exceed fourteen days at once, nor be repeated without an equal interval.

75. A previous conviction shall induce a liability to increased punishment to amount specified.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are—

First.—Death.

Secondly.—Transportation.

Thirdly.—Penal Servitude.

Fourthly.—Imprisonment, which is of two descriptions, namely—

(1.) Rigorous, that is, with hard labour;

(2.) Simple.

Fifthly.—Forfeiture of property.

Sixthly.—Fine.

[By Act VI., 1864, Whipping is added to the punishments described in this Section.]

Commutation of sentence of death.

54. In every case in which sentence of death shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced, may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced, may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Europeans and Americans to be sentenced to penal servitude instead of transportation.

56. Whenever any person, being a European or American, is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act XXIV. of 1855.

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

Offenders sentenced to transportation, how to be dealt with until transportation.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

In what cases transportation may be awarded instead of imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence of forfeiture of property.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to

imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment in default of payment of fine.

64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied, that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred Rupees and to four months' imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time at the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within six years or at any time during the term of imprisonment.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period and the death of the offender does not discharge from the liability any property, which would, after his death, be legally liable for his death.

Death of offender not to discharge his property from liability.

Limit of punishment of offence which is made up of several offences.

71. Where any thing which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Illustrations.

(*a.*) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(*b.*) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as a blow given to Y is no part of the act, whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of a person found guilty of one of several offences, the judgment stating that it is doubtful of which.

72. In all cases in which judgment is given, that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

Solitary confinement.

73. Whenever any person is convicted of an offence for which, under this Code, the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence order that the offender shall be kept in solitary confinement, for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale (that is to say):—

A time not exceeding one month if the term of imprisonment shall not exceed six months.

A time not exceeding two months if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

75. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the

amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years.

CHAPTER IV.

GENERAL EXCEPTIONS.

76—81. Nothing is an offence which is done by obligation of law, or in the *bonâ fide* belief of being under such obligation, nor (77) which is done by a judge acting judicially and *bonâ fide*; nor (78) which is done *bonâ fide* in execution of an unreversed judgment; nor (79) which is done in the *bonâ fide* but mistaken belief of its being justified by law, the mistake being of fact and not of law; nor (80) which is done by accident or misfortune only; nor (81) which, though harmful, is done principally for the purpose of preventing other harm, &c., under justifiable circumstances.

82—86. Nothing is an offence which is done by a child under 7 years, or (83) above 7 and under 12, if of insufficient understanding to know the character of the act, or (84) which is done by a person of unsound mind and not conscious of the nature of the act, or (85) by a person in the same state and mind induced by involuntary intoxication; but (86) intoxication, if voluntary, shall not excuse.

87—89. To cause death or grievous hurt, by means not intended or not likely to have that effect, or likely, but consented to, &c., whether (88) the consent be express or implied, if the means are used in good faith, is not an offence, and (89) in case of infant under twelve and of person of unsound mind, if done for infant's or insane's benefit, the consent of guardian or keeper shall avail; but (1) not to excuse the intentional causing of death, (2 and 3), nor the risking of death, except to prevent death, &c., nor (4) to excuse the abetment of any non-excepted act.

90, 91. Consent under fear, or under misconception, &c., or by person of unsound mind or under intoxication, or by infant under twelve, not to avail as consent to excuse, under circumstances specified; and further (91) the exceptions in 87, 88 and 89, are not to extend to offences against positive law.

92. If consent would excuse, the want of it is not to constitute that an offence which is done in good faith under circumstances specified; but (1) this rule not to apply to intentional killing or attempting to kill, or (2 and 3) doing what is likely to kill, &c., or (4) to the abetment of any offence. Explanation of word "benefit."

93. Communication made in good faith, and for benefit of person to whom made, is not an offence by reason of its consequences merely.

94. Offences committed under threats of nature described to be excused except homicide and offences against the State. Explanations.

95. Harm not to be deemed any offence, if so slight that person of ordinary sense and temper would not complain of it.

Act done by a person bound, or by mistake of fact believing himself bound, by law.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be, bound by law to do it.

Illustrations.

(a.) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b.) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of a Court of Justice.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done by a person justified or by mistake of fact believing himself justified by law.

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A in the exercise, to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in the doing of a lawful act.

80. Nothing is an offence which is done by accident or misfortune and without criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm but done without a criminal intent and to prevent other harm.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature, and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(a.) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B with 20 or 30 passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only 2 passengers on board which he may possibly clear. Hear, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(b.) A, in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under 7 years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above 7 and under 12 years of age, who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence, unless done with a particular knowledge or intent, a person who does the act in a state of intoxication, shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt done by consent.

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

88. Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a Surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

89. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person.

Provisoes.

Provided—

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death.

Secondly.—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity.

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity.

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting, are not within the exceptions in Sections 87, 88, and 89.

91. The exceptions in Sections 87, 88, and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage, does not justify the act.

Act done in good faith for the benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person, for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent, in time for the thing to be done with benefit. Provided—

Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death.

Secondly.—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity.

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt.

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a.*) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(*b.*) Z is carried off by a tiger. A fires at the tiger, knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith

intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(*c.*) A, a surgeon, sees a child suffer an accident, which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(*d.*) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89, and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, on his own accord, or by reason of a threat of being beaten, joins a gang of dacoits knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do any thing that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Act causing slight harm.

OF THE RIGHT OF PRIVATE DEFENCE.

96, 97. Right of private defence, as defined in the Code, is to excuse every act done in exercise of it, which right (97) is (1) to defend one's own or other persons's body, or property, subject to exceptions and qualifications described in the subsequent Sections.

98. The excuse of infancy, unsoundness of mind, &c., is not to impair the right of defence in person against whom the injury is directed.

99—101. The right of defence is not to be exercised against public servant acting in good faith, though wrongfully, except when his act causes apprehension of death, &c., nor (2) against person acting by direction of such public servant; nor (3) in any case in which recourse could be had to the public authorities; and (4) the defence must not do unnecessary harm. Explanations. But (100) subject to these restrictions, the defence may extend to killing an assailant, who causes apprehension (1) of death; or (2) of grievous hurt; or (3) who intends to commit a rape; or (4) to gratify unnatural lust; or (5) to kidnap or abduct; or (6) to falsely and secretly imprison; and (101) except in these cases a person assailed may not kill his assailant.

102. The right of defence of the body commences with the apprehension of danger from the act attempted.

103, 104. The right of defence of property is subject to same restriction and is of same extent, against (1) robbery; (2) house-breaking by night; (3) mischief by fire to human dwelling or place in use for custody of property; (4) theft, mischief, and house trespass when causing apprehension of death or grievous hurt, but for such right being exercised; but (104) in case of theft mischief, and criminal trespass not of this description, the right of defence must not be exercised to extent of causing death, but it may to extent of any other harm.

105. The right of defence of property commences with the reasonable apprehension of danger, and continues (2) till the thief has run away, or the public authorities are on the spot, or the property has been recovered; and (3) as long as the robber causes or attempts to cause death, &c., or so long as the fear of death, &c., continues, and (4) so long as the criminal trespass continues; and (5) in case of house-breaking so long as the house trespass continues.

106. The right of defence may be exercised, though it puts to risk an innocent person, if it is defence against murder or the apprehension of murder.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right and private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body.

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

98. When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations.

(*a.*) Z, under the influence of madness, attempts to kill A. Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b.*) A enters by night a house which he is legally entitled to enter. Z in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant as such, unless he knows, or as reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority if demanded.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of the body extends to causing death.

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault.

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault.

Thirdly.—An assault with the intention of committing rape.

Fourthly.—An assault with the intention of gratifying unnatural lust.

Fifthly.—An assault with intention of kidnapping or abducting.

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

101. If the offence be not of any of the descriptions

When such right extends to causing any harm other than death.

enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

First.—Robbery.

Secondly.—House-breaking by night.

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property.

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes, or attempts to cause, to any person death, or hurt, or wrongful restraint, or as long as the fear of instant death, or of instant hurt, or of instant personal restraint, continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

107. Abetting is (1) instigating, (2) conspiracy followed up by overt act, (3) aiding by act done. Explanations.

108. Abetting an offence is an offence, though the abetting person may not be liable. Explanations.

109. Abetting an offence is to be punishable in same manner as the offence, unless otherwise provided against. Explanation.

110—113. If the intention of the abettor differs from that of the abetted, the abettor is to be punished for the offence intended; and (111) the abetted shall, for an offence done by the abettor, be punished for the offence, though it

may not have been according to his intention; and (112) shall also be liable for his own offence, and (113) shall be liable for all the consequences of his abetment (instigation), &c., if such consequence was probable.

114. Abetting an offence, shall be punished as the principal offence, if the person abetting is present at its commission.

115, 116. A person who abets the commission of an offence punishable with death or transportation, but which is not committed, shall be liable to imprisonment of either kind, and fine; and (116) if the offence is punishable with imprisonment, and is not committed, shall be liable to punishment on a proportionate scale specified, which is increased in case of offence by public servant.

117. If a person abets the commission of an offence by the public generally, &c., he shall be liable to imprisonment of either kind, &c., or fine, or both.

118—120. A person voluntarily concealing with intent to facilitate commission, the existence of a design to commit an offence punishable with death or transportation for life, or (119, 120) a design to commit any offence, shall be liable in the first case to imprisonment, &c., and in the second case to punishment on a graduated scale.

Abetment of a thing. 107. A person abets the doing of a thing who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact, and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor. 108. A person abets an offence who abets either the commission of an offence, or the commission of an

act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a.*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b.*) A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a.*) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b.*) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder and he is therefore subject to the punishment of death.

(*c.*) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d.*) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception,

does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation, B is liable to be punished for his offence with the punishment for murder, and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison. Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy, in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punisment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 161.

(*b.*) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c.*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence, and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act is abetted and a different act is done.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Proviso.

Illustrations.

(*a.*) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake, puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(*b.*) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act and not a probable consequence of the burning.

(*c.*) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and, being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor present when offence is committed.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, to be punished with imprisonment of either description for a term which may extend to seven years,

Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment.

and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

If an act which causes harm be done in consequence of the abetment.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and if any hurt be done to Z, in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for the offence, or with such fine as is provided for the offence, or with both.

Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

Illustrations.

(*a.*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.

(*b.*) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.

(*c.*) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(*d.*) B abets the commission of robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery, be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting the commission of an offence by the public or by more than ten persons.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this Section.

Concealing a design to commit an offence punishable with death or transportation for life.

118. Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of any offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

If the offence be committed.

If the offence be not committed.

Illustration.

A knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

119. Whoever being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate the commission of any offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false

If the offence be committed.

respecting such design, shall, if the offence be committed, be punished with imprisonment, of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

If the offence be punishable with death, &c.

If the offence be not committed.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this Section.

Concealing a design to commit an offence punishable with imprisonment.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth, and, if the offence be not committed to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

If the offence be committed.

If not committed.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

121. Waging, or attempting to wage war, or abetting, shall be punishable with death, or transportation for life, and absolute forfeiture of property.

122. Making preparations in manner specified with intention to wage war,

&c., against the Queen, punishable with transportation, &c., or imprisonment of either kind, and absolute forfeiture of property.

123. Concealing the existence of design to wage war, with view to facilitate the offence, punishable with imprisonment of either kind, and fine.

124. Assaulting, or wrongfully restraining, &c., or wounding by means of criminal force, &c., the Governor General, or Governor, &c., with intention to influence him in the exercise of his lawful powers, punishable with imprisonment of either kind, and fine.

125. Waging war against any Asiatic ally of the Queen, or attempting, or abetting it, transportation for life and fine, or imprisonment of either kind, &c., and fine, or fine alone.

126. Committing depredation, or preparing to do so, on the Territories of an ally, imprisonment of either kind, &c., and fine, and forfeiture of things used in committing the offence.

127. Receiving any property taken in the commission of such depredation, imprisonment of either kind, &c., and fine, &c.

128. Public servant, voluntarily allowing escape of State prisoner, liable to transportation, &c.

129. Public servant, negligently allowing State prisoner to escape, punishable with simple imprisonment, &c., and fine,

130. Knowingly aiding State prisoner to escape, or receiving him, &c., or offering resistance to re-capture, &c., punishable with transportation, &c., or imprisonment of either kind, &c., and fine. Explanation.

Waging or attempting to wage war, or abetting the waging of war against the Queen.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Illustrations.

(*a.*) A joins an insurrection against the Queen. A has committed the offence defined in this Section.

(*b.*) A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

Collecting arms, &c., with the intention of waging war against the Queen.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war, with the intention of either waging, or being prepared to wage war against the Queen, shall be punished with transportation for life, or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

123. Whoever by any act, or by any illegal omission, conceals

Concealing with intent to facilitate a design to wage war.

the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

124. Whoever, with the intention of inducing or compelling the Governor General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor General, Governor, Lieutenant-Governor, or Member of Council, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes by means of criminal force, or the show of criminal force, or attempts so to overawe such Governor General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Waging war against any Asiatic Power in alliance with the Queen.

125. Whoever wages war against the Government of any Asiatic Power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportion for life, to which fine may be added; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.

Committing depredation on the territories of any power at Peace with the Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the Territories of any Power in alliance or at peace with the Queen, shall be punished with imprisonment of every description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or required by such depredation.

Receiving property taken by war or depredation mentioned in Sections 125 and 126.

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of

either description for a term which may extend to seven years, and shall also be liable to be fined and to forfeiture of the property so received.

Public servant voluntarily allowing prisoner of State or War in his custody to escape.

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant negligently suffering prisoner of State or War in his custody to escape.

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape of, rescuing, or harbouring such prisoner.

130. Whoever knowingly aids or assists any State prisoner or prisoner of War in escaping from lawful custody, or rescues, or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner, or prisoner of War, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

131, 132. Abetting mutiny, attempting to seduce soldier, &c., from his allegiance, &c., punishable with transportation, &c., or imprisonment of either kind, &c., and fine, and (132) if the mutiny be committed punishable with death or transportation for life or imprisonment of either kind, and fine.

133, 134. Abetting an assault by soldier, &c., on superior officer, in the execution of his office, punishable with imprisonment of either kind, &c., and fine, and (134) if the assault be committed, with increased imprisonment of either kind, &c., and fine.

135, 136. Abetting desertion in Army or Navy, and (136) harboring known or suspected deserter, punishable with imprisonment of either kind and fine.

137. Master of merchant vessel having deserter on board, through negligence, liable to fine.

138. Abetting act of insubordination by officer, &c., punishable with imprisonment of either kind, &c., or fine, or both.

139. But none of these punishments to be applied to persons subject to Articles of War in either Army or Navy.

140. Make-believes, by simulated garb, &c., that a person is a soldier, &c., who is not one, punishable with imprisonment of either kind, or fine, or both.

Abetting mutiny or attempting to seduce a soldier or sailor from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor, from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death, or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

133. Whoever abets an assault by an officer, soldier, or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, or sailor, in the Army or Navy of the Queen, on any superior officer, being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier or sailor.

135. Whoever abets the desertion of any officer, soldier, or sailor, in the Army or Navy of the Queen shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring a deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor, in the Army or Navy of the Queen, has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred Rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by a soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor, in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Person subject to Articles of War not punishable under this Code.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing the dress of a soldier.

140. Whoever, not being a soldier in the Military or Naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with

imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

141. Assembly of five or more persons is an unlawful assembly, if its common object be (1) to overawe by criminal force, or the show of it, the Legislative or Executive Government, or any Governor or Public Servant as such; or (2) to resist legal process; or (3) to commit any criminal offence; or (4) by means of criminal force, or the show of it, to obtain possession or enjoyment of property; or (5) by same means to compel illegal act. Explanation.

142—145. By joining or continuing in an assembly, knowing it is unlawful, a person becomes a member of it, and (143) every member is punishable with imprisonment of either kind, &c., or fine, or both; or (144) if armed with deadly weapon, or weapon likely to cause death, with longer term of imprisonment, or fine, or both; and (145) any person joining or continuing in assembly after command to disperse, shall be liable to same punishment.

146—148. Force or violence used in any unlawful assembly by any one makes all guilty of rioting; and (147) rioting is punishable with imprisonment of either kind, &c., or fine, or both; (148) a person armed with deadly weapon, &c., guilty of rioting, is punishable with increased term.

149. Every member of an unlawful assembly, in which an offence is committed by any one in pursuit of the common object, is to be deemed guilty of that offence, &c.

150. Any person who hires, &c., any one to join or become a member of an unlawful assembly, shall be punishable as a member of the assembly, and for any act of his hireling in the assembly.

151, 152. Knowingly joining, &c., any assembly of five or more persons likely to disturb the public peace, after it has been commanded to disperse, punishable with imprisonment of either kind, &c., or fine, or both. Explanation. And (152) any person obstructing, &c., public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or attempting to use criminal force against public servant, shall be liable to increased punishment.

153. Whoever malignantly, &c., by an illegal act, gives a provocation for rioting, shall, if rioting ensue, be punishable with imprisonment of either kind, &c., or fine, or both.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the place in which, &c., shall be liable to fine, if he, knowing it has taken place, does not give notice, &c., or, if having reason to expect it, he does not use means to prevent it, &c.

155, 156. If riot is committed in the interest, &c., of owner or occupier of any land, or if owner or occupier has accepted any benefit from such riot, such owner or occupier shall be punishable with fine, if having reason to expect such riot he did not use means to prevent it; and (156) the agent or manager for the owner, &c., shall, under the like conditions, be liable to same punishment (fine).

157. Harbouring, receiving, assembling in any house, &c., any persons, knowing that they are engaged, &c., to join, &c., an unlawful assembly, punishable with imprisonment of either kind, &c., or fine, or both.

158. Persons hired, &c., for any of the objects detailed in Section 141, shall be punishable with imprisonment of either kind, or fine, or both, to be increased if armed.

159, 160. Two or more, fighting in a public place, and disturbing the peace, commit an affray; and (160) persons committing an affray, punishable with imprisonment of either kind, or fine or both.

Unlawful assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any Public Servant in the exercise of the lawful power of such Public Servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Punishment.

144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Force used by one member in prosecution of common object.

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for rioting.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting, armed with a deadly weapon.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

150. Whoever hires, or engages, or employs, or promotes, or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Hiring or conniving at hiring of persons to join an unlawful assembly.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Assaulting or obstructing public servant when suppressing riot, &c.

153. Whoever malignantly or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Wantonly giving provocation, with intent to cause riot.

If rioting be committed.

If not committed.

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand Rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police Station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit a riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place, and for suppressing and dispersing the same.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Harbouring persons hired for an unlawful assembly.

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged, or hired, as aforesaid, goes armed, or engages, or offers to go armed, with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

Or to go armed.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

Punishment for committing affray.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Public servant or person expecting to be one, accepting, &c., or attempting to obtain, for himself or any one else, any gratification other than legal remuneration, &c., for official act, &c., or for any service, &c., to any person with the public authorities, shall be punishable with imprisonment of either kind, &c., or fine, or both. Explanation of "expecting to be a public servant;" "gratification;" "legal remuneration;" "motive or reward for doing." Illustrations.

162—164. Any person accepting, &c., any gratification, &c., for inducing, by corrupt or illegal means, any public servant to do, or forbear, &c., show favor or disfavor, &c., render service or disservice, &c., shall be liable to same punishments, and (163) for inducing, by the exercise of personal influence, the same conduct on part of public servant, shall be liable to reduced amount of same punishment; and (164) any public servant to whom the said means are addressed, who abets the offence, shall be liable to same punishment.

165. Public servant accepting, &c., or obtaining, &c., for himself or any one else, any valuable thing without consideration, or for what he knows, to be inadequate consideration, from any person concerned or likely to be concerned in any business, &c., of such public servant, &c., shall be punishable with imprisonment, &c., or fine, or both.

166. Public servant knowingly disobeying any direction of the law as to his conduct as public servant, intending to cause, or knowing that it will be likely to cause, injury to any person, shall be punishable with simple imprisonment, or fine, or both.

167. Public servant charged with the preparation or translation of any document, doing it knowingly incorrectly, and intending thereby to injure, &c., any person, shall be punishable with imprisonment of either kind, or fine, or both.

168. Public servant bound not to engage in trade, doing it, shall be punishable with simple imprisonment, or fine, or both.

169. Public servant bound not to purchase or bid for any property, doing it either alone or jointly, or in shares, punishable with simple imprisonment, &c., or fine, or both, and the property shall be confiscated.

170, 171. Falsely pretending to hold a particular office, or personating the real officer, and in such assumed character doing any act by colour of it, punishable with imprisonment, or fine, or both; and (171) wearing garb, &c., of any class of public servants, &c., to make believe in the assumed garb as a true one, punishable with reduced amount.

Public servant taking a gratification, other than legal remuneration, in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment

of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a.*) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(*b.*) A, holding the office of Resident at the Court of a subsidiary Power, accepts a lac of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that Power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that Power. A has committed the offence defined in this Section.

(*c.*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this Section.

Taking a gratification, in order, by corrupt or illegal means, to influence a public servant.

162. Whoever accepts, or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do, or to

forbear to do, any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Taking a gratification, for the exercise of personal influence with a public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or, in the exercise of the official functions of such public servant, to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An Advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust; are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or fine, or both. A is punishable with imprisonment for a term which may extend to three years, or fine, or both.

Public servant obtaining any valuable thing, without consideration, from persons concerned in any proceeding or business transacted by such public servant.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration or for a consideration which he knows to be inadequate, from any person whom he knows, to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty Rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b.*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c.*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying a direction of the law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z, A has committed the offence defined in this Section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment, for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb, or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Absconding to avoid service of legal process, &c., simple imprisonment and fine, and if the process be summons for personal attendance in Court simple imprisonment and increased fine.

173. Intentionally preventing service of legal process, &c., or removing it from place where it is affixed, or preventing proclamation being made, simple imprisonment, or fine, or both, and increased fine if the process required personal attendance in a Court of Justice.

174. Not attending at place appointed in obedience to legal process, or illegally departing, simple imprisonment, or fine, or both, and increased term, or increased fine, if the process was for personal attendance at a Court of Justice.

175. Not producing, &c., document to public officer, simple imprisonment &c., or fine, or both, and if the production should be to a Court of Justice, the same punishment of increased amount.

176. Not furnishing information, or giving notice to public officer when bound, imprisonment, &c., or fine, or both, and same punishment increased if the object is the prevention of an offence, or apprehension of offender.

177. Being legally bound to furnish information to public servant, and knowingly, &c., furnishing false, simple imprisonment, &c., or fine, or both, and to an increased amount if the information is required for purposes of criminal police. Illustrations.

178—180. Refusing to take oath to state the truth, or (179) refusing to answer question when legally bound to do so, simple imprisonment, &c., or fine, or both, and (180) refusing to sign statement when legally required, same punishment of reduced amount.

181. On oath, making false statement, imprisonment of either kind, and fine.

182. Knowingly, &c., giving false information to public servant, to induce exercise of his power to injury of any one, &c., imprisonment of either kind, or fine, or both.

183. Offering resistance to the taking of property by public servant imprisonment of either kind, or fine, or both.

184. Obstructing sale of property by public servant, imprisonment of either kind, or fine or both.

185. Purchasing or bidding at such sale for person under legal incapacity, or without intention to perform the obligation of purchaser, imprisonment of either kind, or fine or both.

186. Voluntarily obstructing public servant, as such, imprisonment of either kind, or fine, or both.

187. Intentionally omitting to aid public servant in execution of his office, simple imprisonment, or fine, or both, to be of increased amount if the assistance was demanded for execution of process of Court of Justice, or for specified police purposes.

188. Knowingly disobeying a public order of a public servant, by taking possession of property contrary to order, if such disobedience causes, &c., obstruction, &c., to persons employed, simple imprisonment, &c., or fine, or both; or if it causes danger to life, &c., imprisonment of either kind, or fine, or both. Explanation. Illustration.

189. Holding out any threat of injury to public servant, &c., to induce him to do, forbear, or delay, contrary to his duty, imprisonment of either kind, &c., or both.

190. Holding out any threat or injury to any one, to deter his resort to the protection of law, imprisonment of either kind, &c., or fine, or both.

Absconding to avoid service of summons, or other proceeding from a public servant.

172. Whoever absconds in order to avoid being served with a summons, notice, or other proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both; or if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent as such public servant to issue such summons, notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine, which may extend to five hundred Rupees, or with both; or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine, which may extend to one thousand Rupees, or with both.

Non-attendance in obedience to an order from a public servant.

174. Whoever being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine, which may extend to five hundred Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine, which may extend to one thousand Rupees, or with both.

Illustrations.

(*a.*) A being legally bound to appear before the Supreme Court at Calcutta in obedience to a subpœna issuing from that Court, intentionally omits to appear, A has committed the offence defined in this Section.

(*b.*) A being legally bound to appear before a Zillah Judge as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear, A has committed the offence defined in this Section.

Omission to produce a document to a public servant by a person legally bound to produce such document.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine, which may extend to five hundred Rupees, or with both; or if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Illustration.

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same, A has committed the offence defined in this Section.

Omission to give notice or information to a public servant by a person legally bound to give notice or information.

176. Whoever, being legally bound to give any notice, or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice, or to furnish such information in the manner and at the time required by law,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Furnishing false information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake, A is guilty of the offence defined in this Section.

(*b.*) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant, residing in a neighbouring place, and being bound, under Clause 5, Section VII., Regulation III., 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

Refusing oath when duly required to take oath by a public servant.

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant, legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees or with both.

Refusing to answer a public servant authorized to question.

179. Whoever being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Illustrations.

(*a.*) A informs a Magistrate that Z, a Police Officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such

information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(*b*.) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises attended with annoyance to Z. A has committed the offence defined in this Section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of a public servant.

185 Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Obstructing public servant in discharge of his public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty intentionally omits to give such assistance, shall be punished with

simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

188. Whoever knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

Threat of injury to a public servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or

to forbear or to delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191, 192. Person being bound by an oath, or express provision of law, to state the truth, and knowingly, &c., making false statement, or statement not believed by maker of it to be true, is said (in the Code) "to give false evidence," whether it be verbal or written. Explanations. And (192) a person is said to "fabricate false evidence" who causes any circumstance to exist, or makes any false entry, &c., or false document, intending it to be used in evidence in a judicial proceeding, or proceeding before a public servant or before an arbitration, and thereby to mislead touching any point material to the result.

193. Intentionally giving false evidence in judicial proceedings, or fabricating false evidence for use in judicial proceeding, imprisonment of either kind, &c., and fine, and in any other case like punishment of diminished amount. Explanations 1, 2 and 3.

194, 195. Giving or fabricating false evidence, with a view to obtain a conviction of a capital offence, transportation for life or rigorous imprisonment, &c., and if conviction is thereby obtained, death, or the above punishment; and (195) if given with a view to obtain conviction of an offence not capital, &c., the same punishment as the person convicted would be liable to.

196. Corruptly using, &c., as true or genuine, any evidence known to be false or fabricated, the same punishment as for giving or fabricating such evidence.

197, 198. Issuing or signing any certificate required by law, &c., knowing or believing it to be false in any material respect, and (198) corruptly using or attempting to use the same, same punishment in such case as for giving false evidence.

199, 200. Making any statement, known or believed to be false, or not believed to be true, in any declaration, &c., usable or receivable as evidence in Court of Justice, &c., or (200) corruptly using or attempting to use any such declaration, same punishment in such case as for giving false evidence.

201. Causing to disappear any evidence of the commission of an offence, to serve the offender, &c., or with same object knowingly giving any false information, punishable on a graduated scale, according to the punishment attached to the principal offence.

202. Omitting to give information, when legally bound to give it, of an offence known or believed to have been committed, imprisonment of either kind, or fine, or both.

203. Giving false information respecting an offence known or believed to have been committed, imprisonment of either kind, or fine, or both.

204. Secreting or destroying, &c., obliterating or rendering illegible, &c., any document, &c., with intention of preventing its being used as evidence, &c., imprisonment of either kind, or fine, or both.

205. Falsely personating another, and acting in the assumed character in any civil or criminal prosecution, imprisonment of either kind, or fine, or both.

206. Fraudulently removing, concealing, transferring, &c., any property &c., intending thereby to elude forfeiture or fine pronounced, or likely to be, or to elude any decree or order, &c., imprisonment of either kind, or fine, or both.

207. Fraudulently accepting, receiving or claiming any property, &c., or practising any deception touching right to property, &c., to elude forfeiture or fine, &c., decree or order, &c., imprisonment of either kind, or fine, or both.

208. Any one fraudulently causing, &c., a decree or order to be passed against himself at suit of any person, for sums not due, or exceeding the due amount, or for property, &c., or fraudulently causing, &c., decree or order to be executed against himself, &c., shall be liable to imprisonment of either kind, or fine, or both. Illustration.

209. Fraudulently, or dishonestly, or with intent to injure any one, making a false claim, imprisonment of either kind, and fine.

210. Fraudulently obtaining a decree or order against any person for sum not due, or more than is due, or for property to which he is not entitled, or causing such decree or order to be executed, imprisonment of either kind, &c., or fine, or both.

211. With intent to cause injury to any one instituting or causing, &c., any criminal proceeding, &c., or falsely charging any person, &c., knowing that there is no just or lawful ground, imprisonment of either kind, or fine, or both or if the offence falsely charged be capital, transportation, &c.

212. After offence committed harbouring or concealing actual or probable offender to screen him from punishment, a graduated scale of punishment according to the amount of punishment attached to the principal offence, except a case of harbouring, &c., of husband or a wife by the other of them.

213, 214. Accepting or attempting to obtain, &c., any gratification, or any restitution of property, in consideration of concealing an offence, or screening

or not proceeding against an offender, &c., a graduated scale of punishment, according to the punishment attached to the principal offence, and (214) for giving or causing, offering, &c., any such gratification or restitution of property for those considerations, the same graduated scale of punishment, excepting when the act prohibited was unconnected with an intention, and for which act a civil action will lie.

215. Taking or agreeing, or consenting to take, any gratification under pretence of giving help to a person to recover property of which he has been deprived by crime, imprisonment of either kind, or fine, or both, unless all means have been used to bring offender to justice.

216. Harbouring or concealing persons escaped from custody, or against whom a capias is out, a graduated scale of punishment according to the punishment to which the principal is liable; but husband or wife not punishable for harbouring the other.

217. Public servant acting contrary to law, with intention, &c., to save any person from legal punishment, &c., or to save any property from forfeiture or charge, shall be liable to imprisonment of either kind, or fine, or both.

218. Public servant, charged with the preparation of any record, &c., framing it incorrectly, &c., with intent to cause, &c., loss or injury, &c., or to save any property from forfeiture or charge, &c., shall be liable to imprisonment of either kind, or fine, or both.

219. Public servant corruptly, or maliciously making or pronouncing in course of judicial proceeding any report, order, verdict, or decision, knowingly contrary to law, shall be liable to imprisonment of either kind, or fine, or both.

220. Public officer corruptly or maliciously committing any person for trial or confinement, or keeping him in confinement, knowing that he does it contrary to law, shall be liable to imprisonment of either kind, or fine, or both.

221, 222. Public servant, legally bound to apprehend or keep any person, by the criminal law, omitting to apprehend such person, or intentionally suffering or aiding his escape, shall be liable to punishment on a graduated scale, according to the punishment to which the principal offender is liable; and (222) where the duty of such public servant was created by the sentence of a Court of Justice, he shall for the same offence be liable to another graduated scale of punishments, as specified in this Section.

223. Public servant, legally bound as such to keep any person in confinement, &c., and negligently suffering him to escape, shall be liable to simple imprisonment &c., or fine, or both.

224. Intentionally resisting or obstructing an arrest of one-self, or escaping, or attempting to escape, from lawful criminal custody, imprisonment of either kind, &c., or fine, or both, in addition to punishment for original offence.

225. Intentionally resisting or obstructing the apprehension of, or rescuing any other person, under criminal process, imprisonment of either kind, or fine, or both, and subject also to a graduated scale of punishments, according to the punishment to which the principal is liable.

226. Returning from transportation before expiry of term, transportation for life, and rigorous imprisonment, &c.

227. A person violating any condition attached to remission of punishment, shall be liable according to the original sentence against him, &c.

228. Intentionally offering any insult, or causing interruption to public servant, sitting on a judicial proceeding, simple imprisonment, &c., or fine, or both.

229. Any person, by personation or otherwise suffering himself to be returned, &c., as a juryman, not being entitled to, &c., by law, or serving on such jury, &c., shall be liable to imprisonment of either kind, or fine, or both.

Giving false evidence.

191. Whoever being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a.*) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b.*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c.*) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d.*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence, whether Z was at that place on the day named, or not.

(*e.*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to

interpret or translate truly, that which is not, and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding, is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a.*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b.*) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c.*) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an Officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death, or the punishment hereinbefore described.

If innocent person be thereby convicted and executed.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

196. Whoever corruptly uses or attempts to use as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Issuing or signing a false certificate.

198. Whoever corruptly uses or attempts to use any such certificate, as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant, or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false, or does not believes to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.

If a capital offence.

been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

If punishable with transportation.

If punishable with less than ten years' imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence, by a person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be

Destruction of document to prevent its production as evidence.

punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

206. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made, by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any

property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

Dishonestly making false claim in a Court of Justice.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description, for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment

for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year, and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed decoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend

If a capital offence.

to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If punishable with transportation for life or with imprisonment.

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence consist only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

Illustrations.

(*a*.) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit

murder, it does not fall within the exception, and cannot therefore be compounded.

(*b.*) A assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception, and may be compounded.

(*c.*) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(*d.*) B commits the offence of adultery with a married woman. The offence may be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes, or agrees, or consents to take any gratification under pretence or on account of helping any person to recover any moveable property, of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered.

216. Whenever any person, convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence; whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such

If a capital offence.

If punishable with transportation for life, or with imprisonment.

offence, or with fine, or with both. [By Act IV., 1867, a punishment is provided for the offence of Escape from lawful custody on default of finding security.]

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being as such public servant, charged with the preparation, of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

Punishment.

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with death; or

With imprisonment of either description for a term which may extend to three years with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice.

222. Whoever, being a public servant legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence, intentionally omits to apprehend such person, or

intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

Punishment.

With transportation for life, or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

With imprisonment of either description for a term which may extend to seven years, with or without fine if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards; or

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.

Escape from confinement negligently suffered by a public servant.

223. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

Resistance or obstruction to the lawful apprehension of another person.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; or

Punishment.

If the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with transportation for life, or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; or

If the person to be apprehended or rescued, or attempted to be rescued, is charged with, or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; or

If the person to be apprehended or rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; or

If the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life, or imprisonment of either description, for a term not exceeding ten years, and shall also be liable to fine.

Unlawful return from transportation.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

227. Whoever having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment.

228. Whoever intentionally offers any insult, or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personation of a juror or assessor.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

230. Coin is metal used as money, issued by authority of Government. What is the Queen's coin. Illustrations.

231, 232. Counterfeiting coin or performing any part of the process of counterfeiting, punishable with imprisonment of either kind, &c., and fine. Explanation. (232) Same offence on the Queen's coin, punishable with transportation, imprisonment of either kind, and fine.

233, 234. Making or mending, &c., or buying, &c., any die, &c., for purpose, &c., of its being used in counterfeiting coin, imprisonment of either kind and fine; (234) same offence for counterfeiting the Queen's coin, an increased term of imprisonment and fine.

235. Being in possession of any instrument or material for use in counterfeiting coin, &c., imprisonment of either kind and fine, and an increased term of imprisonment if the use is for counterfeiting the Queen's coin.

236. Person within British India, abetting the counterfeiting of coin out of it, punishable as if the abetting was to counterfeit within British India.

237, 238. Importing or exporting counterfeit coin knowingly, &c., transportation or imprisonment of either kind and fine; and (238) if the counterfeit is of the Queen's coin, an increased amount of punishment.

239, 240. Having any counterfeit coin, knowing it at the time the party received to be counterfeit, and fraudulently passing it, imprisonment of either kind, and fine; and (240) if it be the Queen's coin, and the party receiving it knew it to be so, an increased amount of punishment.

241. Passing as genuine, knowing any counterfeit coin, but which the party took without knowing it to be counterfeit, imprisonment of either kind, or fine to ten times the value of the coin, or both.

242, 243. Fraudulently or with fraudulent intent, being in possession of counterfeit coin, knowing it was so at time of coming into possession, imprisonment of either kind, and fine; and (243) if the coin be the Queen's an increased amount of punishment.

244. Person employed in any lawful mint, doing or omitting any act with intent to cause coin of wrong weight or composition to be issued, liable to imprisonment of either kind, and fine.

245. Persons wrongfully taking out of any lawful mint, coining tool or instrument, liable to imprisonment of either kind, and fine.

246, 247. Fraudulently or dishonestly performing any operation on coin, which diminishes the weight or alters the composition, imprisonment of either kind, and fine; and (247) if the coin be the Queen's, an increased amount of punishment.

248, 249. Performing on coin an operation which alters its appearance, with intent to pass as a different coin, imprisonment of either kind and fine; and (249) if it be the Queen's coin, an increased amount of punishment.

250, 251. Having possession of coin on which the offence of Sections 246 and 248 has been committed, knowing that fact at time of taking possession and fraudulently, &c., passing such coin, &c., imprisonment of either kind and fine; and (251) if it was the Queen's coin, an increased amount of punishment.

252, 253. Fraudulently, &c., being in possession of coin on which the offence of Sections 246 and 248 has been committed, knowing that fact at time of taking possession, imprisonment of either kind or fine; and (253) if the coin is the Queen's, an increased amount of punishment.

254. Delivering as genuine, or as a coin different from what it is, or attempting to do so, &c., any coin on which the offence of Sections 246, 247, 248 and 249 has been committed, but not having known the fault of the coin when it was received, imprisonment of either kind, or fine ten times the value of the coin.

255. Counterfeiting or performing any process for counterfeiting any Government stamp-duty stamp, imprisonment of either kind, and fine.

256. Having any instrument or material for counterfeiting any Government stamp-duty stamp, imprisonment of either kind, and fine.

257. Making or performing process of making, or buying, &c., any instrument for counterfeiting any stamp-duty stamp, imprisonment of either kind, and fine.

258. Selling, &c., any stamp-duty stamp, knowing, &c., it to be counterfeit, imprisonment and fine.

259. Having possession of counterfeit stamp-duty stamp, intending to dispose of it as genuine, in order to its being used as such, imprisonment of either kind, and fine.

260. Knowingly using as genuine counterfeit stamp, imprisonment of either kind, and fine.

261. Fraudulently and with intent to cause loss to Government removing, &c., from any stamped substance, any writing, &c., in order that the writing, &c., may be used for a different writing, &c., imprisonment of either kind, or fine, or both.

262, 263. Fraudulently, or with intent to cause loss to Government, using a stamp twice over, imprisonment of either kind, or fine, or both; and (263) erasing mark showing that stamp has been once used, or knowingly having or selling such stamp, imprisonment of either kind, or fine, or both.

Coin.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used.

Queen's coin.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India or of the Government of any Presidency or of any Government in the Queen's Dominions, is the Queen's coin.

Illustrations.

(*a.*) Cowries are not coin.

(*b.*) Lumps of unstamped copper, though used as money, are not coin.

(*c.*) Medals are not coin, inasmuch as they are not intended to be used as money.

(*d.*) The coin denominated as the Company's Rupee is the Queen's coin.

Counterfeiting coin.

231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence who, intending

to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeit coin.

238. Whoever imports into British India, or exports therefrom, any counterfeit coin, which he knows, or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of the Queen's coin, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin, which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be counterfeit.

Illustration.

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees for goods to D, who receives them not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section, but B and C are punishable under Section 239 or 240, as the case may be.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

242. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof, that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in a mint causing coin to be of a different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight, or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

Explanation.—A person who scoops out part of the coin, and puts any thing else into the cavity, alters the composition of that coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

249. Whoever performs on any of the Queen's coins any operation which alters the appearance of that coin, with the intention that the said coin should pass as a coin of a different description, shall be punished with imprisonment of either decription for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

250. Whoever having coin in his possession with respect to which the offence defined in Sections 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

Delivery of Queen's coin possessed with the knowledge that it is altered.

251. Whoever having coin in his possession with respect to which the offence defined in Sections 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

252. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

254. Whoever delivers to any other person as genuine, or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248, or 249, has been performed, but in respect of which he did not at the time when he took it into his possession know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend

to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Counterfeiting a Government Stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government Stamp.

257. Whoever makes, or performs any part of the process of making or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government Stamp.

258. Whoever sells, or offers for sale, any stamp which he knows, or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government Stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any Stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine

stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government Stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effacing any writing from a substance bearing a Government Stamp, or removing from a document a stamp used for it with intent to cause loss to Government.

261. Whoever, fraudulently or with intent cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Using a Government Stamp known to have been before used.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or sells, or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHING AND MEASURING.

264—267. Fraudulently using any instrument for weighing, knowing it to be false; and (265) using any false weight or false measure, or using weight or measure as different from what it is; and (266) having any instrument, weight or measure, knowing it to be false, intending the same to be fraudulently used; and (267) making, selling, &c., any instrument for weighing, weight, or measure, to be used as true, &c., in all these cases, imprisonment of either kind, or fine, or both.

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

266. Whoever is in possession of any instrument for weighing, or of any weight or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

267. Whoever makes, sells, or disposes of any instrument for weighing, or any weight, or any measure of length or capacity, which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, & MORALS.

268. A public nuisance is any act or illegal omission which causes common injury, danger or annoyance to the public or people in general, dwelling, &c., in

the vicinity, or annoyance in regard to use of any public right. A nuisance is not excused by its causing some convenience.

269, 270. Unlawfully or negligently doing any act, likely, &c., to spread the infection of disease dangerous to life, imprisonment of either kind, or fine, or both; and (270) "malignantly" committing the same offence, the same punishment of increased amount.

271. Knowingly disobeying any quarantine rule of Government, imprisonment of either kind, or fine, or both.

272, 273. Adulterating articles of food or drink, so as to make it noxious, intending to sell it as food or drink, &c., imprisonment of either kind, or fine or both; and (273) the same punishment for selling, &c., any such article which has been rendered noxious, &c., knowing it to have become so, &c.

274—276. Adulterating any drug or medicinal preparation, so as to lessen its efficacy, &c., or change its operation, &c., or knowing it likely to be sold, &c.; and (275) selling, &c., the same, or issuing it from any dispensary to any person ignorant of the adulteration; or (276) knowingly selling, &c., or issuing from any dispensary any drug, &c., as a different drug; in all these cases imprisonment of either kind, or fine, or both.

277. Voluntarily corrupting or fouling the water of any public spring or reservoir, so as to render it less fit for its purpose, imprisonment of either kind, or fine, or both.

278. Voluntarily vitiating the atmosphere in any place, so as to make it noxious to the health of inhabitants or passengers, &c., fine.

279. Driving or riding on public way so rashly or negligently as to endanger life, or put any person to risk, &c., imprisonment, or fine, or both.

280. Navigating any vessel in same manner with same danger and risk, same punishment.

281. Exhibiting any false light, mark, or buoy, intending, &c., to mislead any navigator, imprisonment of either kind, or fine, or both.

282. Knowingly or negligently conveying, &c., any person by water or vessel in such state, or so overloaded as to endanger life, imprisonment of either kind, or fine, or both.

283. Any one doing any act, or omitting in regard to property under his charge, &c., and thereby causing danger, obstruction, &c., in any public way or line of navigation, liable to fine up to 200 Rupees.

284—287. Doing with any poisonous substance any act so rashly or negligently as to endanger life, or to be likely to cause hurt, &c., or omitting to take proper order with any such substance to guard against danger, &c.; and (285) the same acts and omissions in regard to fire, or any combustible matter, with like probable danger and risk; and (286) the same acts and omissions in regard to any explosive substance, with the like probable danger and risk; and (287) the same acts and omissions in regard to any machinery with the like probable danger and risk—in each case, imprisonment of either kind, or fine or both.

288. In pulling down or repairing any building, knowingly, &c., omitting to guard against probable danger to life from the fall of the building, imprisonment, or fine, or both.

289. Knowingly or negligently omitting to guard against probable danger to life, or grievous hurt from any animal, imprisonment of either kind, or fine, or both.

290. Committing any public nuisance not specially provided against, fine up to one hundred Rupees.

291. Repeating or continuing a public nuisance after inhibition by public servant not to repeat it, imprisonment, or fine, or both.

292, 293. Selling or distributing, or importing for sale, &c., or exhibiting to public view, or (293) having for the purpose of sale any obscene book, &c., or attempting, &c., to do so, imprisonment of either kind, or fine, or both; but not to extend to representation, &c., on or in temples, &c., or for religious purposes.

294. Singing, reciting, or uttering, &c., in or near any public place any obscene song, &c., to the annoyance of others, imprisonment, or fine, or both.

Public nuisance.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission which causes any common injury, danger, or annoyance to the public or to the people in general, who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel

into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore, or with other vessels, or for regulating the intercourse between places where an infectious disease prevails, and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy, or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished

with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of any drug as a different drug or preparation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Fouling the water of a public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Making atmosphere noxious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling, or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred Rupees.

Rash driving or riding on a public way.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to one thousand Rupees, or with both.

Rash navigation of a vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Exhibition of a false light, mark, or buoy.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred Rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to

human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligence with respect to any animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Punishment for public nuisance.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred Rupees.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat to continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

292. Whoever sells or distributes, imports or prints, for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Sale, &c., of obscene books.

Exception.—This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscence book for sale or exhibition.

294. Whoever sings, recites, or utters in or near any public place any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. Destroying, damaging, or defiling any place of worship or object held sacred, &c., with intention of insulting the religion of any class, &c., imprisonment of either kind, or fine, or both.

296. Voluntarily causing disturbance to any assembly for religious worship or religious ceremonies, imprisonment of either kind, or fine, or both.

297, 298. Trespassing on any place of worship, &c., or sepulture, &c., or causing indignity to any corpse, &c., with the intention, in each instance, to wound any one's feelings, or insult his religion, &c., imprisonment of either kind, or fine, or both; and (298) the same punishment for uttering any word, making any sound or gesture, or exhibiting any object, with intention to wound any one's religious feelings.

295. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons,

Injuring or defiling a place of worship, with intent to insult the religion of any class.

or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing a religious assembly.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, &c.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place or sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, &c., with deliberate intent to wound the religious feelings of any person.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

299. The causing of death by an act done with that intention, or with the intention of causing injury likely to be fatal, or with the known probability of such result, is culpable homicide. Illustrations. Explanations.

300. Culpable homicide is murder (except as is herein excepted), if the fatal act was done with the intention of killing; (2) or of doing such

injury as was known to be likely to kill; or (3) as ordinarily would be sufficient to kill; or (4) as was so imminently dangerous as in all probability to do mortal injury or to kill. Illustrations. But (1) culpable homicide is not murder, if committed whilst deprived of self-control under grave and sudden provocation; if (1) the provocation was not sought or provoked by the offender; or (2) was not given by any legal act or public servant; or (3) in the exercise of the right of private defence. Explanation. And (2) culpable homicide also is not murder, if committed in the exercise *bonâ fide* of the right of defence of person or property, though exceeding the right by law, if the defence was unpremeditated, and without intending more harm than was necessary. And (3) is not murder if the offender was a public servant acting for the advancement of public justice, and exceeded his powers only in good faith, believing what he did to be necessary, and being without malice. Also (4) is not murder when committed in a sudden fight, in heat of passion, without premeditation and without taking unfair advantage. Explanation. And (5) is not murder if the deceased being above eighteen suffers death or consents to the risk. Illustration.

301. Doing any thing intended or likely to cause death, and thereby committing culpable homicide, without intending the particular homicide, or knowing it was likely to be deemed the same offence as that which was intended or likely.

302. Murder is punishable with death, transportation for life, and fine.

303. Person under sentence of transportation, committing murder shall be punished with death.

304. Culpable homicide, not amounting to murder, shall be punishable with transportation for life, imprisonment of either kind, and also with fine in the case specified, or with imprisonment of either kind, or fine, or both, in the case in that behalf specified.

305, 306. The abetment of the offence of suicide by a person under eighteen, an insane or delirious person, or idiot, or intoxicated person, shall be punishable with death, transportation for life, imprisonment, also fine: and (306) with imprisonment of either kind and fine, if the suicide is by any person not of these descriptions.

307, 308. Doing any act with such an intention or knowledge that, if death ensued, it would be murder, imprisonment of either kind and fine, and if hurt is caused, transportation for life, &c. Illustrations. And (308) if the intention or knowledge with which the act is done would, if death ensued, be culpable homicide, not amounting to murder, imprisonment of either kind, or fine or both; or if hurt ensued, the same punishment of increased amount.

309. Attempting suicide, or doing any act towards it, simple imprisonment and fine.

310, 311. Habitual association with others, for robbery or child-stealing by means of murder, is thuggery; and (311) any thug is punishable with transportation for life and fine.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Culpable homicide.

Illustrations.

(*a.*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in, and is killed. A has committed the offence of culpable homicide.

(*b.*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c.*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment, the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death; or

Murder.

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

3rdly.—If it is done with the intention of causing bodily

injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

4thly.—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a.*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b.*) A, knowing that Z is laboring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is laboring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c.*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(*d.*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisoes:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a.*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b.*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c.*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d.*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition and that A has perjured himself. A is moved to sudden passion by these words, A kills Z. This is murder.

(*e.*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f.*) Z strikes B. B is by this provocation excited to violent rage. A, a by-stander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder, if the offender, in the exercise, in good faith, of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder, if the offender, being a public servant, or aiding a public servant, acting for the

advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation, in a sudden fight, in the heat of passion, upon a sudden quarrel, and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death. A has therefore abetted murder.

Culpable homicide by causing the death of a person other than the person whose death was intended.

301. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by a life convict.

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description, for a term which may extend to ten years; and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such

bodily injury as is likely to cause death; or with imprisonment of either description, for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Abatement of suicide of child or insane person.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide.

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt at murder.

307. Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned. [See Act XXIII., 1867, as to specified offences by Fanatics.]

Illustrations.

(*a.*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(*b.*) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(*c.*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(*d.*) A, intending to murder Z by poison, purchases poison, and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

Attempt to commit culpable homicide.

308. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that, if he thereby caused death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this Section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time, after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing, by means of, or accompanied with murder, is a thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

312—314. Voluntarily causing a woman (herself or a nother) with child to miscarry, except to save life of woman, imprisonment of either kind, or fine, or both; and if the child be quick, an increased amount of same punishment; and (313) if done without the woman's consent, transportation for life or imprisonment of either kind, and fine; and (314) if the death of the woman is caused, and was done without her consent, other modifications of punishment prescribed in Sections 313 and 314.

315, 316. Intentionally preventing the birth of any child alive, or causing its death after birth, except to save the life of the mother, imprisonment of

either kind, or fine, or both; and (316) if in the case of the quick unborn child, the circumstances are such that the offence would amount to homicide, imprisonment of either kind and fine.

317. Father or mother, or person having care of child under twelve, exposing it with intention to abandon it, imprisonment of either kind, or fine, or both. Explanation.

318. Secretly burying, &c., dead body of child, &c., with intention of concealing, &c., its birth, imprisonment of either kind, or fine, or both.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this Section.

Causing miscarriage without woman's consent.

313. Whoever commits the offence defined in the last preceding Section, without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine; and if the act is done without the consent of the woman,

If act done without woman's consent.

shall be punished either with transportation for life, or with the punishment above-mentioned.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent a child being born alive, or to cause it to die after birth.

315. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after

its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description, for a term which may extend to ten years, or with fine, or with both.

Causing death of a quick unborn child by an act amounting to culpable homicide.

316. Whoever does any act under such circumstances, that if he thereby caused death, he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this Section.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description, for a term which may extend to seven years, or with fine, or with both.

Explanation.—This Section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

OF HURT.

319, 320. To cause bodily pain, disease, or infirmity, is to cause hurt, of which (320) the following kinds are "grievous hurt," viz. (1) emasculation, (2) permanent privation of sight of either eye, of (3) hearing of either ear, of (4, 5) any member or joint or of their powers, (6) permanent disfiguration of

head or face, (7) fracture, &c., of a bone or tooth, (8) any hurt which endangers life or causes severe bodily pain, &c., for twenty days, &c., or inability for ordinary pursuits.

321—326. Doing any act, intending thereby, or knowing it likely to and thereby in fact causing hurt to any one, is said "voluntarily to cause hurt;" or (322) "grievous hurt," as the case may be. Explanation. And (323) the former, except under Section 334, shall be punishable with imprisonment, or fine, or both; and (324) if the hurt was caused by shooting, stabbing or cutting, or by any instrument, &c., likely to cause death, or by fire, heated substance, poison, corrosive substance, or substance deleterious to inhale, swallow, receive into the blood, &c., or by means of any animal, an increased amount of same punishment; and (325) if the hurt is "grievous hurt," a still further increased amount of same punishment; and (326) if such "grievous hurt," is occasioned by any of the special means enumerated in Section 324, the punishment may be transportation for life, or imprisonment of either kind, and also fine.

327—329. Voluntarily causing hurt for the purpose of extorting, &c., any property or security, or compelling an illegal act to be done, or facilitating commission of an offence, imprisonment of either kind and fine; and [328 *see post*] (329) voluntarily causing grievous hurt for same purposes, transportation for life, or imprisonment of either kind, and fine.

328. Administering or causing, &c., any stupefying, intoxicating, or unwholesome drug, &c., with intent to cause hurt, or to commit, &c., an offence, &c., imprisonment of either kind and fine.

330, 331. Voluntarily causing hurt for purpose of extorting any confession or information which may lead to detection of an offence, &c., or thereby procuring the restoration of property or of any security, or of getting satisfaction of any claim, &c., imprisonment of either kind and fine. Illustrations. And (331) if the hurt be grievous hurt, caused for those purposes, an increased amount of same punishment.

332, 333. Voluntarily causing hurt to public servant in discharge of his duty, or to prevent discharge of duty, &c., imprisonment of either kind, or fine, or both; and (333) if the hurt be grievous hurt, caused for those purposes an increased amount of same punishment.

334, 335. Voluntarily causing hurt on grave and sudden provocation, without intending it for any other person, except who gave the provocation, imprisonment of either kind, or fine, or both; and (335) if the hurt be grievous hurt under the same circumstances, an increased amount of same punishment. Explanation.

336—338. Doing any act so rashly or negligently as to endanger the life or safety of others; and (337) causing hurt to any person by so doing such act; or (338) causing grievous hurt to any person by so doing such act, imprisonment of either kind, and fine, or both, to be increased for offence under 337, and further increased under 338.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person, is said to cause hurt.

320. The following kinds of hurt only are designated as "grievous":—

Grievous hurt.

Firstly.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention thereby of causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt, except when he both causes grievous hurt, and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow, which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, which may extend to one thousand Rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Punishment for voluntarily causing grievous hurt.

325. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument, which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property or to constrain to an illegal act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

328. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug, or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do any thing that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession or to compel restoration of property.

330. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a.*) A, a police officer, tortures Z, in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(*b.*) A, a police officer, tortures B, to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(*c.*) A, a revenue officer, tortures Z, in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(*d.*) A, a zemindar, tortures a ryot, in order to compel him to pay his rent. A is guilty of an offence under this Section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the

detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description, for a term which may extend to one month, or with fine, which may extend to five hundred Rupees, or with both.

Causing grievous hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall

be punished with imprisonment of either description, for a term which may extend to four years, or with fine which may extend to two thousand Rupees, or with both.

Explanation.—The last two Sections are subject to the same provisoes as Exception 1, Section 300.

Punishment for act which endangers life or the personal safety of others.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred and fifty Rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine which may extend to one thousand Rupees, or with both.

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

339—348. Voluntarily obstructing and thereby preventing any one from going in a direction in which he has a right to proceed is "wrongfully restraining" him, except it be the obstruction of a private way in a belief of right. Illustrations. And (340) wrongfully restraining a person and thereby preventing his proceeding beyond certain circumscribed limits is "wrongfully to confine" him. Illustrations. And (341) the former is punishable with simple imprisonment, or fine, or both; the latter (342) with imprisonment of either kind, or fine, or both; and (343) an increased amount, if the confinement is for 3 days or more; and (344) a still further increased amount if it is for 10 days or more; and (345) if the confinement is continued with knowledge that a writ of liberation has issued; and also (346) if the confinement is aggravated by means intended to conceal it from any person interested, or from any public servant, the offence is punishable with imprisonment of either kind in addition

to any other punishment applicable under this Code; and (347) if the confinement is for the purpose of extorting money or property, or compelling an illegal act, or extorting information to facilitate the commission of an offence; or (348) to lead to the detection of an offence, or procure the restoration of property, or to satisfy any claim, &c., in either case imprisonment of either kind and fine.

Wrongful restraint.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a.*) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b.*) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description, for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for ten or more days.

344. Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such a manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description, for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose of extorting property or constraining to an illegal act.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do anything illegal, or to give any information which may facilitate the commission of any offence, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession or of compelling restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to

the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

349, 350. Using force is to cause the feeling of motion in any way in which motion can be impressed; (1) by means of bodily power; (2) by means of any substance having the power of stopping or causing motion; (3) by means of any animal; and (350) intentionally using force to any one without his consent, in order to committing an offence, or to cause injury, fear, &c., is using "criminal force." Illustrations.

351—353. Making gestures, &c., to cause the apprehension of criminal force, is an assault. Explanation. Illustrations. And (352) assaulting or using criminal force, except on grave and sudden provocation, punishable with imprisonment of either kind, or fine, or both; but provocation sought, or provoked, or by a public servant as such, or in the exercise of a right, will not excuse; and (353) assaulting or using criminal force to a public servant as such, imprisonment of either kind, or fine, or both.

354—356. Assaulting or using criminal force to any woman to outrage her modesty; or (355) to any person to dishonour that person, except on grave and sudden provocation; or (356) to any person in attempting to commit theft on the person, imprisonment, or fine, or both.

357, 358. Assaulting or using criminal force to any one in attempting to confine him, imprisonment, or fine, or both; or (358) to any one on grave and sudden provocation, but not such as excuses, simple imprisonment, or fine, or both.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with any thing so situated, that such contact affects that other's sense of feeling: provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

Firstly.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion, takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a.*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b.*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c.*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d.*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e.*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z, and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f.*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g.*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling. A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*h.*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture, or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a.*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b.*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c.*) A takes up a stick, saying to Z, "I will give you a beating." Here though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for using criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, which may extend to five hundred Rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or

If the provocation is given by any thing done in obedience to

the law or by a public servant in the lawful exercise of the powers of such public servant; or

If the provocation is given by any thing done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonour a person, otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

357. Whoever assaults or uses criminal force to any person in attempting wrongfully to confine that person, shall be punished with imprisonment of either description, for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Assaulting or using criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment, for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Explanation.—The last Section is subject to the same explanation as Section 352.

OF KIDNAPPING, ABDUCTING, SLAVERY, AND FORCED LABOUR.

359—361. Kidnapping is (1) from British India; (2) from lawful guardianship; and (360) any one conveying any one from British India without lawful consent, kidnaps; and (361) it is kidnapping also to take or entice any minor under 14 if male, or 16 if female, or any insane, out of care of lawful guardian, without consent.

362. Abducting is by force or deceitful means compelling or inducing any person to go from any place.

363—367. Kidnapping of either kind is punishable, with imprisonment of either kind and fine; and (364) kidnapping or abducting to murder, &c., transportation for life, or imprisonment of either kind and fine. Illustrations. And (365) kidnapping or abducting any one with intent to confine him; or (366) kidnapping or abducting a woman with intent that she may be compelled to marry, or be seduced, or forced to illicit intercourse, &c.; or (367) kidnapping or abducting any one to bring him to grievous hurt or slavery, or to the unnatural lust of any one, &c., imprisonment of either description and fine, of specified amounts.

368. Knowing a person has been kidnapped or abducted, and wrongfully concealing or confining him, same punishment as for kidnapping or abduction.

369. Kidnapping or abducting any child under 10 with intention of stealing from such child, imprisonment of either kind and fine.

370, 371. Importing, exporting, removing, buying, selling, disposing of, accepting, receiving, or detaining any one as a slave, imprisonment of either kind, and fine; and (371) habitually doing the same things or dealing in slaves, transportation for life, or imprisonment of either kind, and fine.

372, 373. Selling, letting to hire, or otherwise disposing of any minor under 16, with intent to be used for prostitution or unlawful or immoral purpose; or (373) buying, hiring, or otherwise obtaining such minor for same purpose, imprisonment of either kind, and fine.

374. Unlawfully compelling any person to labour against his will, imprisonment of either kind, or fine, or both.

Kidnapping.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age, if a male, or under sixteen years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces any person to go from any place is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India, or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

364. Whoever kidnaps or abducts any person, in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a.*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(b.) A forcibly carries or entices B away from his home, in order that B may be murdered. A has committed the offence defined in this Section.

Kidnapping or abducting, with intent secretly and wrongfully to confine a person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting, in order to subject a person to grievous hurt, slavery, &c.

367. Whoever kidnaps or abducts any person, in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting a child under ten years, with intent to steal moveable property from the person of such child.

369. Whoever kipnaps or abducts any child under the age of ten years, with intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells, or disposes of, any person as a slave, or accepts, receives, or detains against his will any person

as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unlawful compulsory labor.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

OF RAPE.

375. Committing rape is sexual intercourse with a woman, (1) against her will; (2) without her consent; (3) with consent obtained by fear of death, &c.; (4) or given under the false belief that the man is her husband, he knowing he is not; (5) or given by a child under 10. Explains the term "sexual intercourse." Exception.

376. Committing rape, transportation for life or imprisonment and fine.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

Rape.

Firstly.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under ten years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for rape.

OF UNNATURAL OFFENCES.

377. Voluntarily having carnal intercourse against the order of nature with man, woman or animal, transportation for life, imprisonment of either kind and fine.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unnatural offences.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.

OFFENCES AGAINST PROPERTY.

OF THEFT.

378. Theft is the intending to take dishonestly any moveable property without consent of the possessor of it, and moving it in order to taking. Explanation, (1) of the subject of theft; (2) of the moving; (3 and 4) of the causing to move; (5) of the consent. Illustrations.

379—381. Committing theft, imprisonment of either kind, or fine or both: and (380) in any building, &c., used as a human dwelling, imprisonment for longer term and fine; or (381) by a clerk or servant the same punishment.

382. Committing theft, under circumstances which show preparation to commit violence for purposes specified, rigorous imprisonment and fine. Illustrations.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be expressed or implied, and may be given either by the person in possession, or by any person having for that purpose authority either expressed or implied.

Illustrations.

(*a.*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b.*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow

it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c.*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d.*) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e.*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f.*) A finds a ring, belonging to Z, on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g.*) A finds a ring lying on the high road, not in the possession of any person. A by taking it commits no theft, though he may commit criminal misappropriation of property.

(*h.*) A sees a ring, belonging to Z, lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i.*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j.*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k.*) Again, if A, having pawned his watch to Z, takes it out of Z' possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l.*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly. A has therefore committed theft.

(*m.*) A being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's books. If this was A's impression, A has not committed theft.

(*n.*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o.*) A is the paramour of Z's wife. She gives a valuable property which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p.*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in dwelling-house, &c.

380. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel, is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to committing such theft.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a.*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(*b.*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

383—389. Intentionally putting any person in fear of injury and thereby inducing him to part with property is "extortion." Illustrations. And (384) committing extortion is punishable with imprisonment of either kind, or fine, or both; and (385) in order to committing it, putting any person in fear of injury, &c.; or (386) committing it by putting any person in fear of death or grievous hurt; or (387), in order to committing it, putting or attempting to put any person in fear of death or grievous hurt; or (388) committing it by putting any person in fear of an accusation of an offence punishable with death, &c.; or (389), in order to the committing of it, putting or attempting to put any person in fear of such accusation, punishments varied with each specified variety of the offence.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed, which may be converted into a valuable security, commits "extortion."

Illustrations.

(*a.*) A threatens to publish a defamatory libel concerning Z, unless Z gives, him money. He thus induces Z to give him money. A has committed extortion.

(*b.*) A threatens Z that he will keep Z [illegible] of [illegible] confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain moneys to A. Z signs and delivers the note. A has committed extortion.

(*c.*) A threatens to send clan men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d.*) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the

paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury, in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by putting a person in fear of death or grievous hurt.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Extortion by threat of accusation of an offence, punishable with death, or transportation, &c.

388. Whoever commits extortion, by putting any person in fear of an accusation against that person or any other, of having committed, or attempted to commit any offence, punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed or attempted to commit an offence, punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, sha

be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be punishable under Section 377, may be punished with transportation for life.

OF ROBBERY AND DACOITY.

390. In robbery there is either theft or extortion. Theft is robbery if in carrying it out, the offender causes, &c., death, or hurt, or wrongful restraint, or fear of any of these, and extortion is robbery if the surrender of the property is obtained through fear of death, hurt, or wrongful restraint, &c. Explanation. Illustrations.

391. Five or more persons, including persons present, aiding in joint attempt to commit a robbery, commit by such union of numbers "dacoity."

392—394. Committing robbery, rigorous imprisonment and fine, and if on the highway between sunset and sunrise, an increased term; and (393) attempting to commit robbery, rigorous imprisonment and fine; and (394) voluntarily causing hurt in the robbery or attempt, transportation for life or rigorous imprisonment and fine.

395—398. Committing dacoity transportation for life or rigorous imprisonment and fine; and (396) if murder is committed by any one of the dacoits, death or transportation for life, or rigorous imprisonment and fine; and (397) if either in robbery or dacoity the offender uses a deadly weapon, or causes grievous hurt, or attempts either; or (398) is armed with any deadly weapon, punishments varied with each specified variety of the offence.

399. Making preparation for committing dacoity, rigorous imprisonment and fine.

400, 401. Belonging to a dacoity-gang, transportation for life, or rigorous imprisonment and fine; and (401) belonging to any wandering gang associated for theft or robbery, rigorous imprisonment and fine.

402. Being one of five or more assembled for purpose of committing dacoity, rigorous imprisonment and fine.

Robbery.

390. In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt, or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a.*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b.*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c.*) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d.*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding, is said to commit "dacoity."

Punishment for robbery.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall

be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

403, 404. Dishonest misappropriation, &c., of moveable property, imprisonment, or fine, or both. Illustration. Explanations. Of case of finding. Illustrations; and (404) if the misappropriation be of a deceased person, property not taken possession of since his death, an increase of punishment, and further increase if the offender was the deceased's servant or clerk. Illustration.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a.*) A takes property belonging to Z out of Z's possession, in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(*b.*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(c.) A and B being joint owners of a horse, A takes the horses out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

A finds a Government Promissory Note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(a.) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence in this Section.

(b.) A finds a letter on the high road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(c.) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(*d.*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(*e.*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(*f.*) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this Section.

OF CRIMINAL BREACH OF TRUST.

405. Any one entrusted with property or dominion over it, and dishonestly misappropriating or converting it to his own use, or using, &c., it in violation of any law, or of any contract, or suffering any other person so to do, &c., commits "criminal breach of trust." Illustration.

406—409. Committing criminal breach of trust, imprisonment of either kind, or fine or both; and (407) if committed by carrier, wharfinger, warehouse keeper; or (408) by clerk, servant, &c.; or (409) by public servant, banker, merchant, factor, broker, attorney or agent, in regard to property to which their special capacity or trust applies, punishment specified in these different Sections.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode

in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a.*) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b.*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A under a contract, that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c.*) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lac of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d.*) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal for Z, instead of buying Company's paper here, though Z should suffer loss, and should be entitled to bring a Civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed a criminal breach of trust.

(*e.*) A, a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly misappropriates the money. A has committed criminal breach of trust.

(*f.*) A, a carrier, is intrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal breach of trust by carrier, &c.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

408. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant, or agent.

OF RECEIVING STOLEN PROPERTY.

410. Property, the possession of which has been transferred by theft, extortion or robbery, or what has been criminally or by criminal breach of trust, misappropriated, is stolen property.

411—413. Dishonestly receiving or retaining stolen property, imprisonment of either kind, or fine or both; and (412) if the receiver knows, &c., the robbery was by dacoity, a higher punishment; and (413) an habitual receiver or dealer in stolen property is to be punished as specified.

414. Voluntarily assisting in concealing, disposing of, or making away with stolen property, imprisonment of either kind, or fine or both.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving stolen property.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property, which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property, which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

OF CHEATING.

415. By deceit, fraudulently or dishonestly inducing any one to deliver property, &c., or to omit anything, &c., to the damage or harm of body, mind, reputation, or property, is to "cheat." Explanation. Illustrations.

416. Cheating by personation is falsely pretending to be some other person, or falsely substituting one person for another. Explanation. Illustrations.

417—420. Cheating, imprisonment of either kind, or fine, or both; and (418) cheating by a person bound contrariwise to protect, knowing the probable effect, an increased amount of same punishment; and (419) the same also for cheating by false personation; and (420), cheating, and thereby dishonestly inducing the delivery of property, &c., or of any security, or making, altering, &c., any security, imprisonment for an increased term and fine.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally

induces the person so deceived to do or omit to do anything which he would not do, or omit, if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Explanation.—A dishonest concealment of facts is a deception within the meaning of this Section.

Illustrations.

(*a.*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b.*) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c.*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats

(*d.*) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonored, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e.*) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f.*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats

(*g.*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant, which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h.*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats

(*i.*) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation," if he cheats by pretending to be some other person, or by knowingly substituting one person for

another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(*a.*) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(*b.*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing a delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of the valuable security, or any thing which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

421—424. Dishonestly or fraudulently removing and concealing, &c., or transferring without adequate consideration any property, intending thereby to prevent the distribution of it among creditors, &c., imprisonment of either kind or fine, or both; and (422) dishonestly, &c., preventing any debt or

demand becoming available for creditors, the same punishment; and (423) the same, for dishonestly, &c., signing, &c., any deed, &c., for transferring or charging any property, &c., falsely stating the consideration; and (424) dishonestly, &c., concealing, &c., any property of one's own or other person, or assisting in its being done, the same punishment but of less amount.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

421. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent the distribution of that property, according to law, among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts, or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF MISCHIEF.

425. Intending, &c., to cause wrongful loss, &c., to the public or any person, and causing the destruction of property, &c., or a diminution of its value, &c., is committing "mischief." Explanations 1 and 2. Illustrations.

426—429. Committing mischief, imprisonment of either kind, or fine, or both; and (427) an increased amount of same punishment if the damage amounts to 50 Rs. or more; and (428) committing mischief by killing, &c., maiming, &c., any animal of the value of 10 Rs. and more, the same increased amount of same punishment; and (429) a still higher amount of same punishment, if the killing, &c., is of any elephant, camel, horse, mule, buffalo, bull, cow, or ox, of whatever value, or of any other animal of the value of 50 Rs. or more.

430. Committing mischief by any act likely to diminish supply of water for agricultural purposes, or for food or drink of man or animals, the property of man, or for cleanliness or carrying on any manufacture; imprisonment of either kind, or fine, or both.

431. Committing mischief by any act rendering any public road, bridge, &c., natural or artificial less safe, &c., the same amount and kind of punishment.

432. Committing mischief by act causing, &c., an inundation or obstruction to public drainage, attended with injury, or damage, &c., the same kind and amount of punishment.

433, 434. Committing mischief by destroying, &c., any light-house, &c., used as sea-mark, or any sea-mark, &c., placed as a guide to navigators, or by rendering same less useful, same kind and amount of punishment; and (434) same offence in regard to land-marks, same kind of punishment of less amount.

435, 436. Committing mischief by fire or explosive substance, intending to cause or likely to cause, damage, 100 Rs., imprisonment of either kind and fine; and (436) if the intent is to cause the destruction of any building used ordinarily as a place of worship or human dwelling, or for the custody of property, transportation for life, or imprisonment of either kind and fine.

437, 438. Committing mischief to any decked vessel or vessel of 20 tons or more, intending to destroy or render it unsafe; or (438) doing the same by fire or any explosive substance, transportation for life, or imprisonment of either kind and fine.

439. Intentionally running any vessel aground, &c., for purpose of theft of property, &c., imprisonment of either kind and fine.

440. Committing mischief, or preparation for causing death, hurt, wrongful restraint, or the fear of them, imprisonment of either kind and fine.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public, or to any person, causes the destruction of any property, or any such change in any property, or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief."

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a.*) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b.*) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c.*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d.*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e.*) A, having insured a ship, voluntarily causes the same to be cast away with the intention of causing damage to the underwriters. A has committed mischief.

(*f.*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g.*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h.*) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of 50 Rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of 10 Rupees.

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of

either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of 50 Rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a seamark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, &c., a land-mark fixed by public authority.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship, or as a human dwelling, or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy, or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last Section when committed by fire or any explosive substance.

438. Whoever commits or attempts to commit by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

439. Whoever intentionally runs any vessel aground or ashore intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that

such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

OF CRIMINAL TRESPASS.

441—446. Entering into or upon property in possession of another, with intent to commit an offence, or to intimidate, &c., any person in possession, or unlawfully remaining there with same intent, is criminal trespass; and (442) is "house-trespass" if the entry, &c., be in any building, &c., used as a human dwelling, or as a place of worship, or for custody of property; and (443) is "lurking house-trespass" if precautions were taken for concealment; and (444) "is lurking house-trespass by night" if committed between sunset and sunrise; and (445) it is "house-breaking" if an entrance into the house be effected in any one of six specified ways Explanation. Illustrations; and (446) house-breaking between sunset and sunrise is "house-breaking by night."

447—452. Criminal trespass, imprisonment of either kind, or fine to 500 Rs. or both; and (448) house-trespass, an increased amount of same punishment; and (449) if committed in order to the commission of any offence, punishable with death; or (450) with transportation for life; or (451) with imprisonment; or (452) for causing hurt, &c., committing an assault, wrongfully restraining any one, &c., punishments modified for each specified variety of house-trespass.

453—455. Lurking house-trespass, or house-breaking, punishable with imprisonment and fine; and (454) if committed in order to commission of any offence punishable with imprisonment, or of theft; or (455) if committed with preparation for causing hurt, or assaulting or restraining any person, &c., punishments modified for each specified variety of offence.

456—460. Lurking house-trespass by night and house-breaking by night, imprisonment of either kind and fine; and (457) same punishment to increased amount, if committed in order to the commission of offence punishable with imprisonment or theft; and (458) a still higher degree of same punishment if committed with preparation to cause hurt, to assault or restrain any one, &c.; and (459) if to cause death or grievous hurt, transportation for life, or imprisonment of either kind and fine; and (460) the same punishment to all engaged, if there are several, if, at the time of committing the offence, any one of them shall attempt to cause death or grievous hurt.

461, 462. Dishonestly, and with intent to commit mischief, breaking open or unfastening any place for care of property, imprisonment of either kind, or fine, or both; and (462) an increased amount of same punishment, if the breaking open, &c., is by person entrusted.

Criminal trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

House-trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel, used as a human dwelling, or any building used as a place for worship, or as a place for the custody of property is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Lurking house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

Lurking house-trespass by night.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

House-breaking.

445. A person is said to commit "house-breaking," who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

Firstly.—If he enters or quits through a passage made by himself or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the

offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house trespass.

Explanation.—Any out-house, or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

(*a.*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b.*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c.*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d.*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e.*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f.*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key This is house-breaking.

(*g.*) Z is standing in his doorway. A forces a passage by knocking Z down and commits house-trespass by entering the house. This is house-breaking.

(*h.*) Z, the door-keeper of Y, is standing in Y's door-way. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

House-breaking by night.

447. Whoever commits criminal trespass, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Punishment for criminal trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Punishment for house-trespass.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transporation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

453. Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

Lurking house-trespass or house-breaking, in order to the commission of an offence punishable with imprisonment.

454. Whoever commits lurking house-trespass, or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

455. Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

457. Whoever commits lurking house-trespass by night, or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person.

458. Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

459. Whoever, whilst committing lurking house-trespass or house-breaking causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

460. If at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

461. Whoever dishonestly or with intent to commit mischief breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

463, 464. Making any false document, &c., with intent to cause damage or injury to the public or any person, or to support any claim or title, or to cause any person to part with property, or to enter into any contract, or to commit fraud, &c., is forgery; and (464) making a false document is (1) dishonestly making, signing, &c., a document, &c., with the intent of its being

believed to be made by some other person; or (2) altering a document without authority, dishonestly, &c.; or (3) dishonestly, &c., causing any person to sign, &c., who by reason of unsoundness of mind, &c., or by deception, does not know the contents, &c. Explanations 1 and 2, and Illustrations.

465—469. Committing forgery, imprisonment of either kind, or fine, or both; and (466) if the document purports to be a record of a proceeding in a Court of Justice, register of birth, baptism, marriage, or burial, register kept by public servant, official certificate, and warrant to defend, &c., imprisonment to an increased amount and fine; and (467) if the forgery be of a valuable security, a will, an authority to adopt a son, authority to make, transfer, &c., receive or deliver, or an acquittance, &c., the same punishment to an increased amount; and (468) if the forgery be committed for the purpose of cheating; or (469) to harm the reputation of any one, &c., the punishment specified in those Sections.

470, 471. A forged document is one made wholly or in part by forgery; and (471) fraudulently using, &c., as genuine a forged document, knowing it to be so, the same punishment as forgery.

472, 473. Making or counterfeiting any seal, plate, &c., for making an impression, intending it to be used for any forgery punishable under Section 467, transportation for life, or imprisonment of either kind and fine; and (473) the same offence in regard to any forgery, punishable other than under Section 467, imprisonment of either kind and fine.

474. Having any document knowing it to be forged, and intending it to be used as genuine, is of the kind described in Sections 466 and 467, punishment varied as specified in this Section.

475, 476. Counterfeiting upon, &c., any material, any device, &c., used for purpose of authenticating any document described in Section 467, intending thereby to give an appearance of authenticity to the document, transportation for life, or imprisonment of either kind and fine; and (476) if the document is of any other kind than described in Section 467, a diminished punishment.

477. Fraudulently or dishonestly, or with intent to cause damage, &c., cancelling, destroying, &c., any will, or authority to adopt a son, or any valuable security, or committing mischief in respect to such, transportation for life, or imprisonment of either kind and fine.

Forgery.

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

Firstly.—Who dishonestly or fraudulently makes, signs, seals, or executes a document, or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by, or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person, by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a.*) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,000 and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(*b.*) A, without Z's authority, affixes Z's seal to a document, purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase-money. A has committed forgery.

(*c.*) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(*d.*) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(*e.*) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill, with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill. A is guilty of forgery.

(*f.*) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B, and C." A dishonestly scratches out B's name, intending, that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g.*) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order," and signing the endorsement. B dishonestly erases the words "pay to Z or his order," and thereby converts the special endorsement into a blank endorsement B commits forgery.

(*h.*) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i.*) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j.*) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances, from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k.*) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(*a.*) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b.*) A writes the word "accepted" on a piece of paper and signs with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery, and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention. B is also guilty of forgery.

(*c.*) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

(*d.*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate

to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(e.) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit and with intent to defraud his creditors, and in order to give a color to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of a record of a Court of Justice, or of a public Registrar of Births, &c.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a valuable security or will.

467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security or to receive the principal interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or

receipt, acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for the purpose of cheating.

468. Whoever commits forgery, intending that the document forged should be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of harming the reputation of any person.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"A forged document."

470. A false document made wholly or in part by forgery is designated "a forged document."

Using as genuine a forged document.

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under Section 467.

472. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent, has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his

possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

474. Whoever has in possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 466, be punished with imprisonment of either descripton for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the descripton mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in Section 467 or possessing counterfeit marked material.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material.

476. Whoever counterfeits upon or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon, or in the substance of, which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of a will.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF TRADE AND PROPERTY MARKS.

478—484. A mark used to denote the particular manufacturer, time, or place of manufacture, or quality, is a trade mark; and (479) if used to denote ownership, is a property mark; and (480) making goods, &c., with any mark as the manufacturer's mark, which it is not, to denote as aforesaid, is using a false mark; and (481) marking moveable property, &c., with the ownership mark, which it is not, is using a false property mark; and (482) using any false trade mark or any false property mark, with intent to deceive or injure, is punishable with imprisonment of either description, or fine, or both; and (483) knowingly counterfeiting such trade mark or property mark with intent to injure; and (484) knowingly counterfeiting any property mark with same intent, &c., the same punishment to an increased amount.

485. Making or having any die, plate, or other instrument, for purpose of making counterfeit public or private property or trade mark, with intent to use, or that the same shall be used as a genuine mark of the kind, imprisonment of either kind, or fine, or both.

486. Selling any goods with a counterfeit property or trade mark, &c., upon the same, or upon case, wrapper, &c., in which they are contained, knowing the mark to be forged, &c., with intent to deceive, &c., imprisonment of either kind, or fine, or both.

487, 488. Fraudulently making any false mark upon any package, &c., with intent to deceive any public servant or other person in regard to the contents of such package, &c., imprisonment of either kind, or fine, or both; and (488) same punishment for fraudulently making use of any false mark with like intent, knowing such to be false.

489. Removing, destroying, or defacing any property mark, intending to injure any person, imprisonment of either kind, or fine, or both.

Trade mark.

478. A mark used for denoting that goods have been made or manufactured by a particular person, or at a particular time or place, or that they are of a particular quality, is called a trade mark.

Property mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property mark.

Using a false trade mark.

480. Whoever marks any goods, or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade mark.

Using a false property mark.

481. Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark.

Punishment for using a false trade or property mark with intent to deceive or injure any person.

482. Whoever uses any false trade mark or any false property mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person, or at a particular time or

place, or that the same is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade mark.

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of making or counterfeiting any public or private property or trade mark with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade mark, with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade mark.

486. Whoever sells any goods with a counterfeit property or trade mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to, or impressed upon, any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods

contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

Defacing any property mark with intent to cause injury.

489. Whoever removes, destroys, or defaces any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVANTS.

490. Voluntary breach of contract to render personal service in carrying or conducting person or property, &c., or as servant or guard on a journey to person or property, punishable, except on excuse of illness, &c., with imprisonment of either kind, or fine, or both. Illustration. Explanation. Illustration.

491. Voluntary breach of contract to attend on, &c., any one who, from youth or infirmity of body or mind, is helpless, &c., imprisonment of either kind, or fine, or both.

492. Voluntary desertion or refusal of service hired in writing for not more than 3 years, as artificer, workman, or laborer, &c., imprisonment of either kind, or fine, double the expense occasioned, or both, except in case of lawful excuse.

Breach of contract of service during a voyage or journey.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

Illustrations.

(*a.*) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(*b.*) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this Section.

(*c.*) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(*d.*) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey put downs the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with a Dák Company to drive his carriage for a month. B employed the Dák Company to convey him on a journey, and during the month, the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety, or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

Breach of contract to serve at a distant place to which the servant is conveyed at the master's expense.

492 Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance

of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

493. Any man by deceit, causing any woman erroneously to believe she is married to him, and thereby obtaining sexual intercourse, &c., imprisonment of either kind and fine.

494, 495. Marrying a second time, the other party to the first marriage living, imprisonment of either kind and fine, except in case of first marriage being void, &c., or of absence of party from the other seven years, &c., provided the once married party inform the other party to the second marriage; and (495) an increased amount of same punishment under Section 493, if the first marriage is concealed at the time of the second.

496. Dishonestly or fraudulently going through the ceremony of being married, knowing that no valid marriage is effected, imprisonment of either kind and fine.

497. Having sexual intercourse with the wife of another man without his consent, &c., is adultery, and the adulterer punishable with imprisonment of either kind, or fine, or both, but not the woman.

498. Taking and enticing away any woman from her known or believed to be husband, with intent to have illicit intercourse, &c., or to conceal her, &c., with that intent; imprisonment of either kind, or fine, or both.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during the life-time of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This Section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of the former marriage from the person with whom subsequent marriage.

495. Whoever commits the offence defined in the last preceding Section, having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Enticing or taking away or detaining with a criminal intent a married woman.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from any person having the care of her on behalf of that man, with intent that she may have illicit

intercourse with any person, or conceals or detains with that intent any such woman shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

OF DEFAMATION.

499. By words, or signs, or visible representations, &c., to publish, &c., intending to harm, &c., the reputation of any one, is to defame that person, and it may be of a deceased person, of a company, and ironical in form, but (Explanations 1, 2, 3, 4) it must directly or indirectly degrade the character, respect of caste, &c., or credit, or body. Illustrations. And (Exceptions 1 to 10) it is not defamation, (1) if true and for the public good; or (2) if it relates to conduct of a public servant; or (3) to that of a private person in a public matter, and is given in good faith, &c.; nor (4) is it defamation to publish a true report of proceedings of a Court of Justice, &c.; nor (5) to express in good faith any opinion respecting any case decided by a Court; nor (6) respecting the merits of any literary work, &c.; nor (7) for a superior to censure the conduct of subordinate, &c.; nor (8) to prefer in good faith an accusation, &c.; nor (9) if it is made in good faith for the protection of an interest, &c., or for the public good; nor (10) if it conveys a caution in good faith, &c.

500—502. Defamation, punishable with simple imprisonment or fine or both; and (501) the same for printing or engraving defamatory matter; and (502) for selling or offering for sale any such printed or engraved matter.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a.*) A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the Exceptions.

(*b.*) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

(*c.*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

Imputation of any truth which the public good requires to be made or published.

Exception 1.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public conduct of public servants.

Exception 2.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question.

Exception 3.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites

the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication of reports of Proceedings of Courts of Justice.

Exception 4.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation.—A Justice of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Merits of a case decided in a Court of Justice; or conduct of witnesses and others concerned therein.

Exception 5.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Illustrations.

(*a.*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(*b.*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Merits of a public performance.

Exception 6.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author, so far as his character appears in such performance, and no further.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a.*) A person who publishes a book, submits that book to the judgment of the public.

(*b.*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c.*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d.*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man." Z's book is indecent, Z must be a man of impure mind." A is within this Exception, he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(*e.*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this Exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Censure passed in good faith by a person having lawful authority over another.

Exception 7.—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier, are within this Exception.

Accusation preferred in good faith to a duly authorized person.

Exception 8.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father; A is within this Exception.

Imputation made in good faith by a person for the protection of his interests.

Exception 9.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a.*) A, shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty."

A is within the Exception if he has made this imputation on Z in good faith for the protection of his own interests.

(*b.*) A, a magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A is within the Exception.

Caution intended for the good of the person to whom it is conveyed or for the public good.

Exception 10.—It is not defamation to convey a caution in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Punishment for defamation.

500. Whoever defames another, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter, known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504, 505. Intentionally insulting, with a view to provoke a breach of the peace; or (505) circulating, &c., any statement, &c., known to be false, &c., with intent to cause mutiny of any soldier or sailor, &c., or fear and alarm to the public, &c., imprisonment of either kind, or fine, or both.

506, 507. Threatening injury to a person, his reputation or property, &c., with intent to cause alarm, or cause conduct for avoidance of the threat, &c., is criminal intimidation, and punishable with imprisonment of either kind, or fine, or both; and if the threat be to cause death, &c., or to cause an offence punishable with death, &c., or to impute unchastity to a woman, &c., a varied punishment, and (507) increased if the criminal intimidation be by anonymous communication, &c.

508. Voluntarily causing, &c., any person to do what he is not legally bound to do, or to omit, &c., by inducing him to believe that the offender can make him an object of Divine displeasure, imprisonment of either kind, &c., or fine, or both. Illustrations.

509. With intent to insult the modesty of any woman, uttering word, or making sound or gesture, &c., or intruding on the privacy of any woman, &c., simple imprisonment, or fine, or both.

510. Being intoxicated in any public place, or where it is a trespass to be and causing annoyance by the offenders mode of conducting himself; imprisonment of either kind, or fine, or both.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a Civil suit, threatens to burn B's house. A is guilty of Criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, &c.

505. Whoever circulates or publishes any statement, rumour, or report, which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidating.

506. Whoever commits the offence of criminal intimidation, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

If threat be to cause death or grievous hurt, &c.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

Act caused by inducing a person to believe that he will be rendered an object of the Divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a.*) A sits dhurna at Z's door with the intention of causing it to be believed that by so sitting he renders Z an object of Divine displeasure. A has committed the offence defined in this Section.

(*b.*) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this Section.

Word or gesture intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten Rupees or with both.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

511. Attempting to commit any offence punishable by this Code with transportation, &c., and doing any act towards the commission of it, if not expressly provided for, punishment to the extent of half the punishment provided for the offence itself, or with the same fine, or both. Illustrations.

Punishment for attempting to commit offences punishable with imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence for a term of transportation, or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a.*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this Section.

(*b*.) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this Section.

By Act IV., 1867, s. 1, the word "offence" (which in the Code (s. 40) is defined as follows, "The word *offence* denotes anything made punishable by this Code") is to be construed in the following Sections, viz: 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, 445, as if it were defined as denoting anything made punishable by the said Code or by *any special or local law*. This enlarged definition has to be applied in connection with s. 4 of the same Act, which, like s. 5 of the Code, saves the operation of any local or special law. The entire construction of this new enactment appears to be that any offence by a local or special law may, if it is also an offence by those Sections of the Code, be punished under the Code, or under the local or special law.

By the same Act (Act IV., 1867, s. 1,) Sections 141, 176, 177, 201, 202, 212, 216, and 441 of the Code, are to "be construed in *the same way* when the thing made punishable by the special or local law is punishable by such law with imprisonment for a term of six months or upwards, whether with or without fine." No illustrations being given, the meaning of this provision is not obvious; but the meaning which occurs to me is, that in cases under any local or special law, which also are within these Sections, the punishment may be either under the Code or the local or special law, when, by the latter, it might be six months imprisonment, &c.

By the same Act (s. 2) an amendment is engrafted on Sections 222, 223 of the Code: they are to be construed as if after the word "offence" the words "or lawfully committed to custody," and "or if the person was lawfully committed to custody," were respectively added.

And by s. 3 of the same Act a new offence is added, viz. the offence of escaping or attempting to escape from any custody, under detention for failing to furnish

any security required under Chap. 19 of the Code of Criminal Procedure.

By Act XXXI., 1867, s. 2, Railway Officers and Servants are to be deemed "Public Servants" within the meaning of Sections 161, 162, 163, 164, and 165 of the Code.

And by s. 3 of same Act the word "Government" is to be deemed to include a Railway Company in connection with the definition of "legal remuneration."

By Act V., 1867, the Indian Penal Code with the modifications made by Act IV., 1867, is extended to the Straits' Settlements, and a dollar in the Straits is to betakenas the equivalent of two rupees under the Code.

EMIGRATION TO FRENCH COLONIES.

Act No. XLVI. of 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

Recites convention between Gt. B. and France comprising articles set forth in recital; also recites that an Act is necessary to give effect to the convention. Enacts:

1. Repeals Acts 14, 1839, and 34, 1852, s. 3, as respects emigration from Calcutta, Madras and Bombay to the French Colonies, Re-union, Martinique, Guadeloupe or Guiana or any other French Colony in which British Consular Agent is established or to which the Act is extended by G. G. in C.

2—4. Authorize appointment by French Government of an Emigration Agent at Calcutta, Madras and Bombay; who (3) may be authorized to recruit and engage emigrants under this Act; (4) subject to the same Regulations and with the same facilities as Emigration Agents for the British Colonies.

5. Protector of Emigrants at Calcutta, Madras and Bombay shall act for the Government in regard to emigrants under this Act.

6, 7. All contracts of Emigrants to be made in India shall be to serve a named person or persons to be named by proper authority in the Colony; (7) and shall be in conformity with terms of the convention, and make provision for duration of time and passage back at expiration, days and hours of work, wages, rations, and pay for extra work, and medical treatment.

8. Emigrants to be conveyed only in licensed ships; for license a fee to be paid. Master to give a bond to perform conditions required by him, and ship carrying emigrants without licence liable to be forfeited and master to be punished.

9. Master not to receive emigrant on Board without the Agent's pass countersigned by Protector. Pass to contain specified particulars.

10. Protector of emigrant shall ascertain that emigrant has not been induced to emigrate by fraud, &c., and knows how far and where he is to go, and that he has been cautioned against unreasonable expectations.

11. Emigrant ship not to have port-clearance till Master has obtained certificate from Protector to effect stated.

12. Prescribes what shall be deemed the probable length of the voyage from the respective ports in India to the respective French Colonies.

13. Emigrant may leave India for the French Colonies E. of the C. of Good Hope at all times of the year; (2) for other French Colonies only from 1st August to 15th March, except having steam power; and (3) double blankets to be supplied to emigrants westward of the Cape.

14. Emigrant vessel to carry Surgeon and Interpreter, and Master bound to carry despatches from Protector to Consular Agent.

15—18. Regulates the space to be provided in ship for the emigrants; and (16) the quantity and kind of provisions and supply of water; and (17) before port-clearance the Protector shall make survey on the provisions and water and certify the same; and (18) the Master shall supply to every emigrant a sufficient quantity for daily maintenance up to 48 hours after arrival of the ship.

19. Protector to deliver to Master 2 copies of ss. 10 to 20 inclusive of this Act, and 2 translations to be kept on board for production to passengers.

20, 21. Master to deliver before port-clearance a list of the emigrants and a duplicate, the latter to be countersigned and returned by Protector and delivered to British Consular Agent at the Colony; and (21) the Master shall be liable to penalty in case of non-compliance with these regulations before clearance.

22, 23. Master after clearance taking any emigrant not named in this list on board to be subject to penalty; (23) also if, after clearance he does any act whereby the certificate will be inapplicable to altered state.

24. Gives Custom House Officers the same powers of search and detention in regard to emigrant ships as for the prevention of smuggling.

25. Emigrant vessel from Calcutta to have Custom House Officer on board, who shall keep register of emigrant and make report on points specified subject to penalties.

26. Forgery of any document or using forged document, subject to imprisonment for 7 years.

27. Penalties on Masters under this Act may be enforced by information before any Magistrate or Justice of the Peace at the instance of Protector of emigrants.

28. Fines and penalties may be recovered by distress and sale of offender's goods, and until levy the offender may be detained in custody, unless he enters into recognizance, and if no distress can be made he may be imprisoned, &c.

29. Every shipment of emigrants to include one-fourth of women, to be

raised to a third after 3 years, to half after 2 years more, and after that to the same proportion as shipments for the British Colonies.

30. Protector to have access to every part of emigrant ship.

31. Act to extend to emigration of only 6,000 to Reunion, and generally as to all the Colonies from the date to be determined by G. G. in Council.

An Act to authorize and regulate the Emigration of Native laborers to the French Colonies.

Preamble.

Whereas a Convention has been negotiated between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage laborers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall entrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of laborers for British Colonies.

ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint, in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself either that the Emigrant is not a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX., and by Section 2 of Article X., shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant except in cases where, in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX., X., XX., and XXI. of the present Convention.

ARTICLE IX.

1. The duration of the Emigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Emigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well to those born in the Colonies.

ARTICLE X.

The Emigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task work and every other kind of regulation for work, shall be freely arranged with the laborer. The obligation to provide, on holidays, for the care of animals, and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the Depôts, or other place which they may be lodged, in order to

communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessel using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant Vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks or in cabins on the upper deck, firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for an hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third, after two years more, it shall be raised to one-half, and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all laborers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Emigrants being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the laborer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of laborers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No laborer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Emigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of Emigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labor regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labor more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to Emigration to the Colonies of Re-Union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to Emigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

[In Act VII., 1862, a new Article XXVI., is set forth in substitution for this; and an additional Article.]

And whereas it is necessary, in order to give effect to the said Convention, and for the due protection of Natives of India emigrating to French Colonies, that an Act of the Legislative Council of India should be passed, it is enacted as follows:

Acts repealed.

I. Act XIV. of 1839, and Section III., Act XXIV., of 1852, are repealed in so far as they render liable to penalties every person who shall make with any Native of India any contract to be performed in the French Colonies of Re-union, Martinique, Guadeloupe and its dependencies, or Guiana, or in any other French Colony in which a British Consular Agent has been or shall hereafter be established, and to which this Act shall be extended by an order of the Governor General of India in Council as hereinafter provided, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, or from any French Port in India to any of the said Colonies.

Nomination of Agents for Calcutta, Madras, and Bombay.

Proviso.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay. Provided that such person, before entering on the duties of his office under this Act, shall have been approved by Her Majesty.

III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native laborers for all or any of the French Colonies aforesaid.

Powers of Agents.

IV. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native laborers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

Operations of recruitment.

V. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of laborers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Article V. of the said Convention shall be performed under such instructions as may be given by the Governor General in Council on that behalf.

Protector of Emigrants.

VI. All contracts of service made with laborers emigrating under this Act, except the contracts mentioned in Section 4 of Article IX. and Section 2 of Article X. of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony to which he emigrates.

Contracts of service, with certain exceptions, to be made in India. Effect of contract.

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

Matters to be provided for in contract.

1. The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

5. In every contract of engagement there shall be inserted an exact copy of Articles IX., X., XX., and XXI., of the Convention hereinbefore recited.

Emigrant ships to be licensed.

VIII. It shall not be lawful to convey any Emigrant, being a native of India, who may embark for the purpose of laboring for hire in any one of the said Colonies from any of the three British ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port is situated.

Fee for license.

[A fee, not exceeding one rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government], and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall execute a Bond binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agents at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor, to a fine of one hundred Rupees for every such emigrant so illegally embarked. [Fee repealed by Act XIII., 1864, s. 83.]

Master of ship to give Bond.

Penalty if ship be not licensed.

IX. It shall not be lawful for the Master of any vessel licensed as above mentioned to receive on board any emigrant laborer, as provided, unless such laborer shall have in his possession and

Master of vessel not to receive on board any Emigrant without a certificate.

show a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Certificate what to state, &c.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarranted expectations; and that every such Emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

Protector to hold personal conference with every Emigrant before embarkation.

Enquiries to be made in public.

XI. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Protector of Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say:—

Before Port-clearance, Master of Ship to obtain certificate from Emigration Protector stating—

First.—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

That the foregoing Section has been complied with.

That the directions in this Act as to health, &c., have been complied with.

Second.—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

That the rules issued by the Governor General in Council as to Medical attendance, &c., have been complied with.

Third.—That such rules have been complied with as the Governor General in Council shall from time to time frame touching the Medical attendance and Medical stores and the proper clothing to be provided, the species of provisions suited to Native habits, the number of women that should accompany the Emigrants, or other matters.

Probable lengths of voyage.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows:—

From the Port of Calcutta to Re-union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.

From the Port of Bombay—

Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Guadeloupe and its dependencies, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor General of India in Council may, by order to be published in the "Calcutta Gazette," extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the

application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

Time of sailing.

XIII. *Clause* 1.—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

Clause 2.—For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Clause 3.—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XIV. Every Emigrant vessel must carry an European Surgeon and an Interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Space to be set apart for Emigrants on board ship.

XV. *Clause* 1.—In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins on the upper deck firmly secured and entirely covered in a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Clause 2.—No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

Clause 3.—An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

Clause 4.—A place shall be fitted up for a hospital in every Emigrant ship.

Clause 5.—Women and Children shall occupy compartments of the vessel distinct and separate from those of the men.

Amount or proportion of provisions to be carried by Emigrant vessels over and above the victualling of the crew.

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid at the time of departure of such ship or vessel from the Port at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice bread, biscuit, flour, oatmeal, or bread staffs to the amount of seven pounds weight for every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filling up her water-casks a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto. Provided also that when any such ship or vessel is fitted with Normandy's Apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Proviso.

Before Port-clearance Master of vessel to obtain a Survey Certificate.

XVII. Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are

in good and sweet condition, and also that over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Up to what time Master of vessel to furnish Emigrants with provisions.

XVIII. The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Emigrant vessel to carry copies and translations of these Regulations.

XIX. Two copies of Sections X. to XX. inclusive of this Act, and two copies of a translation thereof in such Native language as the Local Government may direct, authenticated by the signature of the Protector of Emigrants at the Port or place at which such Emigrants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his perusal.

Master to deliver list to Emigration Agent.

XX. The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to the Protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the

disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

Penalty for non-compliance with particulars required before clearance.

XXI. If the Master of any ship or vessel shall, at any Ports aforesaid, take on board such ship or vessel any Emigrant labourer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XXII. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant labourer as aforesaid without having entered such Emigrant labourer in such list as aforesaid, or without having obtained such duplicate as aforesaid, containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XXIII. If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable on conviction to a penalty not exceeding five thousand Rupees, besides incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for

the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots at Calcutta to countersign papers.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant labourers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant labourer, and shall keep a register of every such Emigrant labourer as may come on board. And such Customs Officers shall remain on board such vessel until she shall arrive in Saugor roads, and shall not come away until muster of the crew and passengers and Emigrant labourers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant labourers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant labourers on board of any ship at the time of his quitting the same; and such report shall contain a declaration that to the best of the declarant's belief no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make false, erroneous, or incomplete report of the Emigrant labourers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant labourers, shall be liable, besides dismissal, to a fine of

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

five hundred Rupees, commutable, if not paid, to imprisonment in the Civil Goal for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

Punishment for forgery of document required by this Act.

XXVI. If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Penalties, how to be enforced.

XXVII. All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the bond given by the Master, if such bond has been given in consideration of the license granted to the ship.

Levy of fines.

XXVIII. All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency aforesaid shall be made to appear to the Magistrate or Justice, he shall, by warrant, commit the offender to gaol, there to be imprisoned,

according to the discretion of the Magistrate or Justice, for any term not exceeding two months, where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Numerical proportion of women to men by each shipment.

XXIX. Each shipment of Emigrants under this Act shall include proportion of women equal to at least one fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

Protector to have right of access to every part of the ship.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

Act when to take effect.

XXXI. This Act shall take effect as to the Emigration of Native labourers from India to the number of not more than six thousand to the Island of Reunion, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Guadeloupe and its dependencies, and Guiana from the time when the Convention herein recited and set forth shall have deen concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer. Provided that Act XIX. of 1856 (*to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native labourers*) shall have full force and effect in respect to the Emigration of Native labourers to any or all of the French Colonies under this Act.

Amended by Act VII., 1862.

THE UNIVERSITIES.—DEGREES.

ACT No. XLVII. OF 1860.

[*Received the assent of the G. G. on the 6th October*, 1860.

1. Empowers the Senate to appoint by Bye-laws new Degrees, and grant Diplomas of Licenses.

2. Extends to Degrees appointed under this Act, Acts II., XXII., and XXVII., 1857.

An Act for giving to the Universities of Calcutta, Madras, and Bombay, the power of conferring Degrees in addition to those mentioned in Acts II., XXII., and XXVII., of 1857.

Preamble.

Whereas it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II., XXII. and XXVII., of 1857, the power of conferring Degrees other than the Degrees in that Act expressly provided for, it is enacted as follows:

Power of Universities to confer Degrees.

I. It shall be competent to the Chancellor, Vice-Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay, respectively to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice-Chancellor, and Fellows of any such University shall have appointed or shall appoint by any Bye-laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

Construction.

II. All the provisions contained in the said Acts II., XXII., and XXVII. of 1857, with respect to the Degrees therein mentioned, and to the examinations for those Degrees, shall apply to any Degrees which may be conferred under this Act, and to the examinations for such Degrees.

PRESIDENCY TOWNS AND STRAITS' SETTLEMENTS.—POLICE REGULATIONS.

ACT No. XLVIII. OF 1860.

[*Received the assent of the G. G. on the 26th Dec.*, 1860.

Recites expediency of amending parts of Act 13, 1856.

1. Repeals Act 13, 1856, ss. 13, 15, 32, 33, 34, 38, 39, 40, 43, 50, 51, 52, 55, 59, 67, 75, 76, 78, 81, 82, 99, 105, 112, 115.

2. Makes Members of Police Force, &c., taking bribes, &c., liable to dismissal, and on conviction liable to fine.

3. Member of Police Force not to resign or withdraw without leave or giving notice two or six months before, &c.

4. In Calcutta and Madras, in case of charge of specified offences, and probable departure of a material witness before time of usual trial in Supreme Court, &c., two Magistrates may proceed to try the offence; and in Bombay (cl. 2) a Magistrate may commit to Petty Sessions, &c., or (cl. 3) send case to Supreme Court.

5, 6. In case of conviction under specified sections of Act 13, 1856, Magistrate may order restitution of property to owner, or fine offender; or (6) add fine to punishment for indemnity of owner.

7. Makes persons assaulting, &c., and resisting, &c., Police Officer liable to fine or imprisonment, and to increased amount if at time under sentence of imprisonment.

8. Makes persons escaping, or attempting, &c., out of legal custody, liable to extended term of imprisonment.

9. Makes person trespassing on houses, &c., or ground belonging to Government, &c., liable to fine, &c.

10. Empowers Magistrate to make order of maintenance for wives and children, under limitations.

11. Establishes in Calcutta and Madras penalty for keeping taverns and places of public entertainment without a license from the Commissioner of Police; and in town of Bombay a penalty in same case; and a penalty for retailing spirituous liquors, &c., in any place.

12, 13. Empowers Commissioner of Police to grant licenses for such houses, &c., upon conditions, for term of one year, with a limitation as to certain descriptions of houses not having an Abkaree license; and (13) breach of these conditions shall cause a forfeiture of the license and a fine.

14. Empowers magistrate, in case of a house used as a common brothel, to summons the owner or tenant, and may order the discontinuance of such use, and in default may fine, &c.

15. Establishes, as presumptive proof of a house being a common gaming house, that cards, &c., or other instruments of gaming, are found therein.

16. Makes persons taking from child under 14 years any thing as a pawn for money lent to such child liable to penalty.

17, 18. Establishes as against dealers and shop-keepers a penalty for having false weights and measures, and authorises their destruction; and (18) authorizes Inspectors and Superior Officers of Police to enter shops for purpose of inspection.

19. Establishes a penalty for the following offences in the Straits' Settlements: (1) furious or negligent driving; (2) driving, &c., elephant or camel; (3) driving vehicle without lights; or (4) on the left side of the road; (5) for showing animals, cleansing in places not allowed; (6) letting loose horses, dogs, &c.; (7) negligence in driving cattle; (8) leaving cart, &c., without control; (9) obstructing road, &c., by carriage; (10) leading, &c., horse, &c., on footway; (11) leaving boxes, &c., so as to cause obstruction in thoroughfare; (12) exposing articles for sale so as to cause obstruction in thoroughfare; (13) beating drum or tom-tom, &c.; (14) lighting fires, &c., and discharging guns, &c.; (15) illuminating without authority; (16) affixing bills, &c.; (17) bathing or washing in public; (18) specified misconduct at bathing places; (19) using indecent and other offensive words, or posting up written or printed paper with intent or tendency to provoke breach of the peace.

20. Empowers Commissioner of Police in Bombay to make rules for blasting of rocks, &c.

21. Attaches to cruelty or causing cruelty to any animal, penalty not more than 100 Rs., and in default of payment rigorous or simple imprisonment for not more than 3 months.

22. Attaches to being found drunk and incapable, or being riotous, disorderly or indecent, fine 20 Rs., or simple or rigorous imprisonment for 14 days.

23. In Calcutta and Straits' Settlement, boats not to ply for passengers unless registered at Police Office; registration to be in force one year, and 1 Re. to be paid for it; and un-registered manjee plying to be liable to fine not above 50 Rs.

24. For summons and subpœna under this Act, 8 As. and 4 As. respectively to be paid.

25. Empowers Magistrate to order the keeper of the gaol to bring up prisoner for examination.

26, 27. Gives a remedy for levy of fines; and (27) establishes a fine for failure to obey summons or subpœna.

28. Empowers Police to seize and impound stray animals, and to sell them if not redeemed within 10 days.

29, 30. Limits actions for anything done under this Act to 3 months, and requires a month's notice with specified particulars to be given, and (30) allows defendant to plead the general issue, and exempts him from costs unless the judge certifies for them.

An Act to amend Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).

Preamble.

Whereas it is expedient to amend certain provisions of Act XIII. of 1856, it is enacted as follows:

Sections repealed.

I. Sections XIII., XV., XXXII., XXXIII., XXXIV., XXXVIII., XXXIX., XL., XLIII., L., LI., LII., LV., LIX., LXVII., LXXV., LXXVI., LXXVIII., LXXXI., LXXXII., XCIX., CV., CXII., and CXV., of Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), are repealed, and the following Sections shall be read with and taken as part of the said Act XIII. of 1856.

Police Officers taking bribes.

II. Whoever, being a member of the Police Force or being employed in any Police Office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding six months.

III. [Repealed by Act III., 1863, s. 1, as respects the Straits' Settlements.]

Jurisdiction of Police Magistrate in certain cases.

IV. *Clause* 1.—Whenever in the Towns of Calcutta and Madras, or in any of the Stations of the Straits' Settlement, any person is charged before the Magistrate with having committed any of the offences mentioned in Sections XXVII., XXVIII., and XXIX. of Act XIII. of 1856, or with having committed within the local limits of the Supreme Court or of the Courts of Judicature of such Stations, the offence mentioned in Section V. of Act XXXI. of 1838, and by reason of the value of the property charged to have been stolen, embezzled, misapplied, or obtained or attempted to be obtained under false pretences, or for any other cause, the offence is not by law summarily cognizable by a single Magistrate, and some material witness is

about to sail from the Port, it shall be lawful for two Magistrates, upon proof of the matters aforesaid, if they shall deem it probable (with reference to the time appointed for the departure of the ship or vessel in which such witness is about to sail) that the prosecution by indictment in the Supreme Court or in the Court of Judicature of the person so charged will be ineffectual in consequence of the absence of such material witness, to hear and determine the charge summarily under this Act, and, on conviction to sentence the offender to imprisonment with or without hard labor for a term not exceeding twelve months, and in cases falling under the said Section XXVII., also to sentence such offender, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Similar charges at Bombay to be tried by the Petty Sessions.

Clause 2.—In the Town of Bombay a Magistrate may commit persons charged with such offences as aforesaid for trial before the Court of Petty Sessions, and the said Court may, on conviction, sentence the offender to a like term of imprisonment or punishment.

Commitment to Supreme Court.

Clause 3.—It shall be lawful for the said two Magistrates and the said Court of Petty Sessions respectively if they deem that the charge is from any circumstances fit to be made the subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature.

Restitution of stolen property, if forthcoming, to owner, or imposition of fine on offender.

V. Upon a conviction for any of the offences mentioned in Sections XXVII., XXVIII., and XXIX., of Act XIII. of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner; and in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same a fine not exceeding the value of the said property, which the Magistrate or Court may order to be paid to the owner or his representative.

Imposition of fine (in addition to punishment for the offence) to indemnify owner for loss sustained.

VI. Upon a conviction for any of the offences mentioned in Sections XXVII., XXVIII., and XXIX. of Act XIII. of 1856, and in Section IV. of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may impose upon the offender, in addition to the punishment of the offence, a fine not exceeding the loss appearing to be caused to the persons who have suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons.

Assaulting Policeman in execution of duty.

VII. Whoever assaults or resists, or aids or incites any person to assault or resist any Police Officer in the execution of his duty, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this Section shall commence and take effect from and after the expiration of such former sentence.

Penalty for escaping from a place of legal confinement.

VIII. Whoever escapes or attempts to escape from or out of any legal custody, shall be liable to be imprisoned with or without hard labor for any term not exceeding three months; and such imprisonment shall commence and take effect from and after the expiration of any sentence of imprisonment under which such person may be confined at the time of committing the offence aforesaid.

Penalty for wilful trespass on property.

IX. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty Rupees.

Magistrate may make order of maintenance for wives and children.

X. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for a Magistrate, upon due proof thereof, to order such person to make a monthly allowance

for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner hereinafter provided for levying fines, or may order him to be imprisoned with or without hard labor for any term not exceeding one month. Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction. Provided also that if such person offers to maintain his wife on condition of her living with him and his wife shall refuse to live with him, it shall be lawful for the Magistrate to consider any grounds of refusal stated by such wife; and he may make the order aforesaid, notwithstanding such offer aforesaid, if he shall be satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty.

Proviso.

XI. Whoever, in the Towns of Calcutta and Madras has or keeps any Hotel, Tavern, Punch-house Ale-house, Arrack or Toddy shop, or place for the sale or consumption of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshment are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police; and whoever in the Town of Bombay has or keeps any such Hotel, Tavern, shop, or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty Rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

Calcutta and Madras.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

Bombay.

Penalty for keeping such house, and for retailing spirits in any place without a license.

XII. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the Local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be re-called. And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Rupee. But such fee shall not interfere with the levy of any fee, tax, or duty on licenses to retail spirituous liquors in the Islands of Bombay and Colaba chargeable under Act V. of 1842.

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on licenses.

XIII. A breach of any of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred Rupees, and such fine shall be recovered from the person licensed, notwithstanding that such

Forfeiture of license and fine.

breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Brothels.

XIV. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summons the owner or tenant of the house, to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five Rupees for every day thereafter that the house shall be so used.

Common gaming-house.

XV. When any cards, dice, gaming-table, or cloth, boards, or other instruments of gaming, are found in any house, room, or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants.

Taking pledge from child under the age of fourteen.

XVI. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred rupees.

Penalty for using false weights and measures.

XVII. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or

any false weight, or false measure of length or capacity, shall be liable to a fine not exceeding fifty rupees, or to imprisonment with or without hard labor for a term not exceeding one month; and every such false instrument, weight, or measure shall be forfeited and destroyed. Weights and measures shall be held to be false when they do not agree with standards to be kept in the Office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the Offices of the Commissioner of Police and of the Clerk of the Markets.

Standards of weights and measures.

XVIII. Any Inspector or superior Officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measures, or instrument for weighing which he may have reason to believe is false. The power granted by this Section may, in Bombay, be exercised by the Clerk of the Markets.

Powers of Inspector, &c., to enter shops to seize false weights and measures.

XIX. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the Local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty rupees:—

Penalty for the following offences in public streets, &c.

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Furious or negligent driving or riding.

2. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

Driving, &c., elephant or camel.

3. Whoever drives any vehicle of any descripton, at any time between three-quarters of an hour after sunset, and one hour before sunrise, without sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

Driving a vehicle without a sufficient light.

4. Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

Driving vehicle otherwise than on left side of the road.

Exposing for show, horses, or cleaning or repairing conveyances, or training horses, in places not allowed by the Commissioner.

5. Whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner.

Letting loose horses, ferocious dogs, &c.

6. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, put in fear any person, horse or other animal.

Negligence in driving cattle.

7. Whoever, by negligence or ill-usage in driving cattle causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

Leaving cart, &c., without control.

8. Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

Obstructing road or thoroughfare by carriage, &c.

9. Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Obstructing footway.

10. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way.

Obstructing thoroughfare by boxes, bales of goods, &c.

11. Whoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

Exposing articles for sale so as to cause obstruction.

12. Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

Beating drum, tom-tom, &c.

13. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.

Lighting fires and discharging guns, fire-works, &c.

14. Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road, or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police.

Illuminations.

15. Whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.

Affixing bills, or otherwise defacing houses, &c.

16. Whoever, without the consent of the owner or occupier affixes any bill or notice, or any paper, against or upon any building, wall, or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk, or paint, or in any way whatsoever.

Bathing, &c., in public street or aqueduct.

17. Whoever bathes or washes himself in any public street, or in, upon, or by the side of any public tank, reservoir, or aqueduct, not being a place set apart for such purpose.

Obstructing persons at bathing places.

18. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.

Indecent language.

19. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Commissioner of Police in Bombay to make rules for blasting of rocks.

XX. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the Local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Colaba; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding one hundred Rupees.

Cruelty to animals.

XXI. Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured any animal shall, for every such offence, be liable to a fine not exceeding one hundred Rupees, and in default thereof to imprisonment with or without hard labor for a period not exceeding three months.

Penalty for drunkenness, or riotous or indecent behaviour in public.

XXII. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police Court, Office, Station, or Section House, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

In Calcutta and the Ports of the Straits' Settlement, passenger boats to be registered.

XXIII. No boat shall ply for Passengers in the Port of Calcutta, or in any of the Ports of the said Settlement, unless duly registered at the Police Office. The following particulars shall be entered in the Register:—

First.—Number of the boat.

Second.—Name and residence of the owner, and of the Manjee.

Third.—Number of the crew.

Fourth.—Number of persons the boat is permitted to carry.

Registration.

The registration shall be in force for one year; and every change of the owner or Manjee within that time shall be therein noted. A fee of one Rupee shall be paid on registration.

Name of owner or Manjee, number, &c., to be painted.

The owner or Manjee of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

Penalty.

The owner or Manjee of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding fifty Rupees.

Fees on summons and subpœnas.

XXIV. For every summons issued by the Commissioner of Police or a Magistrate under this Act, there shall be paid a fee of eight annas, and for every subpœna so issued there shall be paid a fee of four annas.

Proviso.

Provided that it shall be lawful for such Commissioner or Magistrate in any case to remit such fee or fees if he shall be satisfied that the party complaining is unable to pay the same, or if the complaint is made by any Police Officer in execution of his duty.

Power to Magistrates to order prisoners to be brought up to the Police Office.

XXV. When any Magistrate is desirous of examining any prisoner confined in a Civil or Criminal Gaol or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Magistrate to issue an order addressed to the Keeper or Governor of the said Gaol or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination; and the Keeper or Governor of the said Gaol or House of Correction, on the receipt of such order shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Levy of fines.

XXVI. All fines and penalties imposed by a Magistrate of Police under the authority of this Act, or of any other Act heretofore passed, or which shall hereafter be passed, if no other means for enforcing the payment of such fines and penalties are or shall be provided by such Act, may, in case of non-payment thereof, be levied by distress and

sale of the goods and chattels of the offender by warrant of the Magistrate. When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him, on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and, upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to gaol, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Punishment for non-attendance on summons or subpœna.

XXVII. When any person shall be served with a summons or subpœna under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpœna, according to the exigency thereof, he shall be liable to a fine not exceeding twenty Rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

Stray animals to be impounded and sold unless redeemed within ten days.

XXVIII. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police Officers, to seize all cattle or other animals found straying upon the roads, streets, or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time, appointed by the Commissioner of Police;

and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep, or hog, and one Rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

Limitation of action.

Notice of action.

XXIX. *Clause* 1.—All actions and prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Plea.

Tender of amends.

Costs.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit or discontinue

any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Repealed by Act IV., 1866, of the Bengal Council, as respects Calcutta. Parts of it also are affected by Acts of the Madras and Bombay Councils. It remains in entire operation in the Straits' Settlements.

EMIGRANT VESSELS.

Act No. XLIX of 1860.

[*Received the assent of the G. G. on the 26th Dec.*, 1860.

1, 2. Modifies the Schedules of Act XV., 1842; XXI., 1844; and XXXI., 1855, by allowing reduction of the quantity of water to be shipped, if the vessel is provided within Normandy's Distilling Sea-water Apparatus; and (2) directs that Acts XX., 1853; VIII., 1847; and IV., 1852, shall be taken to refer to Act XV., 1842, as herein amended; and Acts XII., 1860; XXXIII., 1860; and XLI., 1860, shall be taken to refer to Act XXXI., 1855.

An Act relating to Vessels carrying Emigrant Passengers to the British Colonies.

Repealed by Act XIII., 1864.

BENGAL.—LAW HOLIDAYS.

Act No. L. of 1860.

[*Received the assent of the G. G. on the 26th Dec.*, 1860.

1. Repeals R. III., 1798, ss. 2, 3; R. VIII., 1805, s. 13; and R. I., 1806, s. 10, all of Bengal.

2. Sudder Courts to publish annual list of holidays for Civil Courts, as settled by the Government.

An Act to amend the law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to amend the Law relating to Vacations observed in the Civil Courts within the Presidency of Fort William in Bengal, it is enacted as follows:

Laws repealed.

I. Sections II. and III. of Regulation III., 1798, of the Bengal Code, Section XIII. of Regulation VIII., 1805, of the same Code, and Section X. of Regulation I., 1806, of the same Code, are hereby repealed.

Sudder Courts to prepare and publish an annual list of Holidays to be observed.

II. Subject to such orders as may from time to time be issued by the Governor General of India in Council or by the Local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the Presidency or place in which each Sudder Court is held.

STAMP DUTIES.

ACT No. LI. OF 1860.

[*Received the assent of the G. G. on the 26th Dec.*, 1860.

1. Repeals Act XL., 1860, s. 1, from 1st January, 1861.

2, 3. Extends time for Act XXXVI., 1860, coming into force as regards foreign bills of Ex.; and (3) directs that this Act be read as part of Act XXXVI., 1860.

An Act further to amend Act XXXVI. of 1860.

Preamble.

Whereas it is expedient further to amend Act XXXVI. of 1860 (*to consolidate and amend the law relating to Stamp Duties*), it is enacted as follows:

Repeal of Section I. Act XL., of 1860.

1. Section I., Act XL., of 1860 (*to amend Act XXXVI. of* 1860), is hereby repealed from the 1st January, 1861.

Repealed by Act X., 1862.

PRESIDENCY TOWNS.—RAILWAY POLICE REGULATIONS.

Act No. LII. of 1860.

[*Received the assent of the G. G. on the* 26*th Dec.*, 1860.

1—3. Empowers Presidency Police Magistrate to try for offences under Act XVIII., 1854, ss. 27, 28; (2) wherever committed if departure of a material witness be probable, and thereby probably indictment in Supreme Court might be ineffectual, and if the witness be within local jurisdiction; and (3) makes the Act part of Act XVIII., 1854.

An Act to amend Act XVIII. of 1854 (relating to Railways in India).

Preamble.

Whereas it is expedient to amend the law relating to offences declared to be punishable under Act XVIII. of 1854 (*relating to Railways in India*), on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, it is enacted as follows:

Police Magistrate may in certain cases try offences punishable under Sections XXVII. and XXVIII., Act XVIII., of 1854, with imprisonment.

I. If any person is charged before a Police Magistrate of a Presidency Town with committing any offence which under Section XXVII. or Section XXVIII. of Act XVIII. of 1854, is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six months' imprisonment with or without hard labor.

Extent of jurisdiction.

II. The jurisdiction given to Police Magistrates under the foregoing Section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any person hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found

within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

III. This Act shall be taken to be, and shall be read as part of Act XVIII., 1854.

Construction.

BENGAL.—LIMITATION OF RENT SUITS.

ACT No. LIII. OF 1860.

[*Received the assent of the G. G. on the* 26*th Dec.*, 1860.

Recites expediency of amending Act X., 1859, s. 30.

1, 2. Gives extended period for bringing suits under that section, but not to extend beyond 31st July, 1861; and (2) authorizes revival of suit which has been dismissed as out of trial under that section.

An Act to amend Act X. of 1859.

Of temporary operation, and expired.

BOMBAY.—SUPREME COURT.

ACT No. I. OF 1861.

[*Received the assent of the G. G. on the* 12*th Jan.*, 1861.

1, 2. Empowers single Judges to sit separately at same time for any kind of business, and with same effect as sitting of full Court; and (2) Court may make rules and orders to give effect to Act.

An Act for the improvement of the administration of justice and despatch of business in the Supreme Court of Judicature in Bombay.

Superseded by establishment of High Courts under Letters Patent.

LAND FOR PUBLIC PURPOSES.

ACT No. II. OF 1861.

[*Received the assent of the G. G. on the* 20*th Jan.*, 1861.

1. Repeals ss. 9 and 37 of Act VI., 1857.

2. In Presidency Towns and Straits' Settlements, Officer obstructed in taking possession of land under Act VI., 1857, shall apply to Commissioner of Police, who shall enforce surrender.

3, 4. Extends Act VI., 1857, in case of Road, Canal, or Railway, to authorise temporary occupation of 100 yards of land from centre of road, &c., for taking earth, &c., or depositing earth, &c., or erecting temporary buildings, &c., or making temporary way, &c., subject to claim for full compensation as specified; and (4) empowers Local Government to extend provisions of said Act to uncultivated land within two miles, for purpose of taking ballast, &c., except in specified case.

5, 6. Person entitled to compensation in respect of land referred to in last Section, may require the land to be permanently taken; and (6) Act to be read as part of Act VI., 1857.

An Act to amend Act VI. of 1857 (for the acquisition of land for public purposes).

Preamble.

Whereas it is expedient to amend Act VI. of 1857 (for the acquisition of land for public purposes), it is enacted as follows:

Sections repealed.

I. Sections IX. and XXXVII. of Act VI. of 1857 are hereby repealed.

In Presidency Towns and Straits' Settlement, Commissioner of Police to enforce surrender of land.

II. Within the Presidency Towns of Calcutta, Madras, and Bombay, and within the Settlement of Prince of Wales' Island, Singapore, and Malacca, if the Collector or other Officer is opposed or impeded in taking possession, under Act VI. of 1857, of land required for public purposes, he shall apply to the Commissioner of Police of the Town or Station, who shall enforce the surrender of the land.

Temporary occupation and use of adjacent land.

III. The powers conferred by Act VI. of 1857, shall extend, in the case of any Road, Canal, or Railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre of the Road, Canal, or Railway, as marked on the ground, for taking earth or other materials for making or repairing the Road, Canal, or Railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon; and of any land which may be needed for making temporary Roads or Railways from any public road or any navigable river on the intended line of Railway: and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone, gravel, sand, and other materials

Compensation for temporary occupation and for permanent damage.

taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained, in case of disagreement, in the same manner as compensation for land permanently taken.

Occupation and use of adjacent land beyond the limits prescribed in preceding Section.

IV. When the Local Government shall be satisfied that in any special case the provisions of the last preceding Section of this Act are inadequate for the purpose of taking ballast or of brick-making or of quarrying for building stone or limestone, and that it is expedient that land should be temporarily occupied beyond the limits prescribed in the said last preceding Section, it shall be competent to the Local Government to extend the provisions of that Section to any uncultivated land situated within two miles from the centre line of the Road, Canal, or Railway, provided that the land to be so occupied be not worked or used by the owner, or any other person in occupation thereof, for the purpose or purposes in this Section mentioned, at the time that a declaration shall be made with respect to the land aforesaid, under the provisions of Section II. of Act VI. of 1857.

Owner may in certain cases require the land to be permanently occupied.

V. In any case in which the Local Government shall exercise the power vested in it by the last foregoing Section, it shall be competent to the person, or all the persons to whom compensation would be payable, at any time before he or they shall have agreed to the compensation awarded by the Collector or other Officer, or before the Collector or other Officer shall have referred the matter to arbitration, to require the land in question to be permanently taken, and the value thereof to be awarded in the manner prescribed in Sections V. and VI. of Act VI. of 1857. Such person or persons shall make an application in writing to the Collector or other Officer on behalf of Government, and on receipt thereof the Collector shall be bound to take the land on behalf of Government as required, or forego the temporary occupation of the same.

Construction.

VI. This Act shall be read with and taken as a part of Act VI. of 1857.

COCHIN.—CUSTOMS EXPORT PEPPER DUTY.

Act No. III. of 1861.

[*Received the assent of the G. G. on the 28th Jan.*, 1861.

1. Export duty on Pepper from Cochin to be 15 Rupees per candy, but not to apply to imported Pepper from British possession.

2. At the end of each year, net proceeds of duty to be paid to Governments of Cochin and Travancore in proportions, &c., settled by Governor General in Council of Madras.

An Act to provide for the collection of Duty of Customs on Pepper exported by Sea from the British Port of Cochin.

Preamble.

Whereas serious affrays have occurred in attempts to smuggle Pepper, the produce of the States of Travancore and Cochin, in consequence of the monopoly which the Governments of those States maintain in that article; and whereas the Rajahs of those States are willing to abandon the said monopoly and to substitute a system of Export Duty; and whereas it is necessary, in order to an effectual establishment of such system, that the same rate of Duty as is collected on the export of Pepper from Travancore and Cochin should be collected on behalf of the said States at the British Port of Cochin, it is enacted as follows:

Duty on Pepper exported by Sea from Cochin.

I. On and after the 1st day of January, 1861, in lieu of the Duty prescribed in Act X. of 1860, there shall be levied a Duty of Fifteen Rupees a candy on all Pepper exported by sea from the Port of Cochin; provided that the said Duty shall not be levied on the re-exportation of any Pepper which may have been imported by sea at the said Port from any British possession.

Appropriation of surplus duty.

II. At the close of each calendar year, or as soon after as may be convenient, the Collector of Customs shall pay to the Governments of Travancore and Cochin the whole amount of Duty collected under the provisions of the last preceding Section, after deducting all expenses of collection, in such proportions and in such manner as may be ordered by the Governor in Council of Fort St. George.

CALINGAPATAM AND MUNSOORCOTTAH.—PORT-DUES.

ACT No. IV. OF 1861.

[*Received the assent of the G. G. on the* 18*th Feb.*, 1861.

Recites necessity of fixing Port-dues, Act XXII. 1855, for Calingapatam and Munsoorcottah.

1. Port-dues not to exceed 1 anna per ton on Vessels of 20 tons and upward other than Dhonies, &c., in the coasting trade entering these ports, and on Dhonies, &c., half rates.

2, 3. No Vessel to be charged more than once in 60 days; and (3) Vessels entering and leaving within 48 hours, without taking in or discharging, to be free, and after seven days only half rates.

4. Vessels entering in ballast to be chargeable only with three-fourths.

5, 6. Act to have effect from 1st March, 1861; prior to which (6) Local Government shall notify the rates.

7. Act to be taken as part of Act XXII. 1855.

An Act for the levy of Port-dues at Calingapatam and Munsoorcottah within the Presidency of Fort St. George.

Preamble.

Whereas it is necessary to fix the amount of Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII. of 1855, in the ports of Calingapatam and Munsoorcottah, being Ports within the Presidency of Fort St. George, it is enacted as follows:

Port-dues on sea-going vessels of 20 tons and upwards, other than Dhonies and country vessels, entering Port.

I. Port-dues at a rate not exceeding the rate of one anna for every ton of burden shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards, other than Dhonies and country vessels employed in the coasting trade, which shall enter either of the said Ports.

Port-dues on Dhonies and country vessels.

Port-dues shall be chargeable in respect of Dhonies and vessels employed in the coasting trade at a rate equal to one-half the rate chargeable in respect of other vessels.

Port-dues to be chargeable only once in sixty days in respect of the same vessel.

II. Provided that no dues as aforesaid shall be chargeable at either of the said Ports oftener than once in sixty days in respect of the same vessel.

No Port-due on vessels leaving Port within 48 hours without discharging or taking in cargo.

Port-due on vessels leaving Port within seven days without discharging or taking in cargo.

III. Vessels entering either of the said Ports and leaving such Port within forty-eight hours without discharging or taking in any cargo or passenger therein, shall not be charged with any Port-due, and vessels so entering and departing as aforesaid within seven days shall be charged one-half only of the Port-dues which would otherwise be chargeable.

Port-due on vessels entering Port in ballast.

IV. Vessels entering either of the said Ports in ballast shall be charged with three-fourths only of the Port-due which would otherwise be chargeable.

Commencement of Act.

V. This Act shall commence and have effect from the First day of March 1861; and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force.

Rates of Port-dues to be published.

VI. The Local Government shall, on or before the First day of March, 1861, pursuant to section XLII., Act XXII., of 1855, declare, by notification to be published in the "Fort St. George Gazette," the rates at which Port-dues shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due shall be levied at either of the said Ports except under the authority of Act XXII. of 1855 and of this Act.

No other Port-dues to be levied.

Act to be read as part of Act XXII. of 1855.

VII. This Act shall be read with and taken as part of Act XXII. of 1855.

GENERAL POLICE.

Act No. V. of 1861.

[*Received the assent of the G. G. on the 22nd March*, 1861.

Recites expediency of re-organizing the Police.

1. Interpretation of words "Magistrate of District," "Magistrate," "Police," "General Police District," "property," of words number, gender, and words "person," "month," "Cattle."

2, 3. The entire Police establishment to be deemed the local force and formally enrolled, to consist of Officers and men; and (3) superintendence of

it to be exercised by Local Government, subject to general control of Governor General in Council; and, except as authorised by this Act, Local Government shall not authorise any person, &c., to appoint, supersede, or control Police functionary.

4. The administration of the Police throughout general Police District to be carried on by Inspector General, Deputy Inspector General, and Assistant Inspector General; and throughout local jurisdiction of Magistrate, by District Superintendent and Assistant District Superintendent under the direction of the Magistrate. The said Officers to be appointed by the Local Government.

5, 6. The Inspector General of Police shall have full powers of a Magistrate through General Police District, subject to limitation by Local Government; and (6) Local Government may vest Magistrate's powers in Deputy Inspector General, Assistant Inspector General, District Superintendent, or Assistant District Superintendent of Police, but to be exercised only for Police purposes, and not judicially.

7. Appointment to the Police force, except of Officers mentioned in Section 4, to rest with the Inspector General, Deputy Inspector General, Assistant Inspector General, and District Superintendent of Police, who may under rules dismiss, &c.

8—10. Police to receive certificate of appointment; and (9) not to resign or withdraw without leave; nor (10) to engage in any duties other than of his office without leave of Inspector General.

11. Police Superannuation Fund to be formed by deduction not exceeding 1-16th from pay of every officer not entitled to benefit of U. S. Pension Rules; and by addition of stoppages from pay during sickness, &c., and of fines, &c., and sales of old clothes, &c., of Police; and to be invested, &c. Benefit of Fund to be forfeited by dismissal, &c.

12. Rules to be made by Inspector General relative to organization, classification, and distribution of the Police Force, residence, &c., Arms, &c., inter-communication of intelligence, &c., and for preventing abuse, &c.

13—16. Inspector General, Deputy Inspector General, or Assistant Inspector General, may, subject to general direction of the Magistrate, on application, &c., depute extra Police to keep the peace at any particular place, &c., at the expense of the applicant, and to be withdrawn on a month's notice, &c., from him; and (14) Inspector General with consent of Local Government may depute additional force to where Railway, Canal, or other Police work, or any factory, &c., is being carried on, if required for the preservation of the peace, &c.; the expense of the additional force to be defrayed by the person having control of the work, &c.; and (15) Inspector General with like consent may increase the fixed force of every quarter of the general District. Expenses to be defrayed by the inhabitants, &c.; which several expenses (16) shall be recoverable by distress and sale, and moneys realized paid to "The General Police Fund."

17—19. Empowers Magistrate on requisition of Officers not below rank of Inspector, to appoint special Police Officers, &c.; who (18) shall have all the

powers, &c., and be under same subordination and liabilities as ordinary Police; and (19) liable to fine not exceeding 50 Rupees for refusal to serve, &c., or obey orders, &c.

20, 21. Police Officers not to exercise any authority except under this Act; but (21) Act not to effect hereditary, &c., Officer, &c., unless enrolled with his consent.

22. Every Police Officer to be considered always on duty, &c.

23. The general duties of Police are to obey and execute all orders, &c., to collect, &c., intelligence affecting the Police force, prevent offences, &c., detect, &c., offenders, apprehend offenders, &c., and to enter and inspect drinking shops, &c., and the resorts of loose, &c., characters.

24. Empowers every Police Officer to lay information, &c., apply for summons, &c., and to prosecute, &c.

25—27. Enjoins on the Police to take charge of unclaimed property, &c., and send inventory to the Magistrate; who (26) may detain and proclaim same; and (27) after six months may order sale of same.

28. Enjoins on Police Officers, on ceasing to be on the roll, to deliver up his certificate, clothing, &c., on pain of fine, &c.

29. Imposes on police for violation of duty, &c., withdrawing from his office, &c., engaging in other employment, &c., being guilty of cowardice, &c., offering illegal violence to person in custody, &c., penalty not exceeding 3 months' pay or imprisonment, &c.

30. Empowers District Superintendent and Assistant Deputy Superintendent to prescribe routes for processions, &c.

31. Makes it the duty of the Police to keep order on the public roads, &c., and places of public resort, to prevent obstructions, &c.

32. Provides penalty for personally opposing, &c., orders issued under Sections 30, 31, or for violating the conditions of licenses, &c.

33. Saves the authority of the Magistrate as respects the subject-matter of Sections 30, 31, 32.

34. Provides fine and imprisonment and authorizes arrest on view without warrant for the following offences in towns to which Act is extended, namely, (1) slaughtering cattle, reckless or furious driving, breaking horses; (2) cruelty to animals; (3) obstructing roads by leaving carriage; (4) exposing goods for sale; (5) throwing down dirt, &c.; (6) being found drunk, &c.; (7) indecent exposure of the person; and (8) neglect to fence in tank, &c., or dangerous place.

35. Restricts convicting Officers under this Act, to the limits of their ordinary jurisdiction as respects amount of fine or imprisonment, and gives Police Officers above rank of Constable the privilege of being tried by Magistrate, &c.

36. This Act not to supersede punishments provided by other Acts.

37—41. For offences punishable by Magistrate penalties may be levied by distress and sale of goods; and (38) until return of distress warrant, offender may be detained in custody; and (39) if return be no goods, &c., offender may be committed unless an European for term graduated to amount of

conviction; or (40) if an European shall be sent with the record to District Court to be dealt with as if under Civil execution.

41. All fees for service of process by Police, and all shares of penalties, which would go to informers, shall go to General Police Fund, when earned by Police and not informers.

42. Limits actions for anything done under Act to three months after act committed, but action not to lie if amends tendered, and plaintiff not to have costs unless Judge certifies.

43. Police Officers may justify under Magistrate's warrant.

44. Police Officers in charge of Station to keep a diary in form to be prescribed by Local Government.

45. Local Government may direct what return shall be made by Inspector General and other Officers.

46, 47. Act not to take effect any where until extended by order of the Governor General in Council; and (47) when proclaimed the Local Government may extend the authority of Magistrates over village police, &c.

Form of certificate of enrolment.

An Act for the Regulation of Police.

Preamble.

Whereas it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime, it is enacted as follows:

Interpretation.

I. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"Magistrate of the District."

The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such executive administration is styled.

"Magistrate."

The word "Magistrate" shall include all persons within the General Police District, exercising all or any of the powers of a Magistrate.

"Police."

The word "Police" shall include all persons who shall be enrolled under this Act.

"General Police District."

The words "General Police District" shall embrace any Presidency, Province, or place, or any part of any Presidency, Province, or place in which this Act shall be ordered to take effect.

"Property."

The word "Property" shall include any moveable property, money, or valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include females.

Gender.

The word "person" shall include a Company or corporation.

"Person."

The word "month" shall mean a calendar month.

"Month."

The word "cattle" shall, besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Sheep, Goats, and Swine.

"Cattle."

II. The entire Police establishment under a Local Government shall, for the purposes of this Act, be deemed to be one Police Force, and shall be formally enrolled; and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time time be ordered by the Local Government, subject to the sanction of the Governor General of India in Council.

Constitution of the Force.

III. The superintendence of the Police throughout a General Police District shall vest in and, subject to the general control of the Governor General of India in Council, shall be exercised by the Local Government to which such District is subordinate; and except as authorized under the provisions of this Act, no person, Officer, or Court shall be empowered by the Local Government to appoint, supersede, or control any Police Functionary.

Superintendence in the Local Government.

IV. The administration of the Police throughout a General Police District shall be vested in an Officer to be styled the Inspector General of Police, and in such Deputy Inspectors General, and Assistant Inspectors General, as to the Local Government shall seem fit. The administration of the Police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary. The Inspector General and other Officers above mentioned shall from time to time be

Inspector General of Police, &c.

appointed by the Local Government, and may be removed by the same authority.

Inspector General to have powers of a Magistrate.

To exercise them under the orders of Government.

V. The Inspector General of Police shall have the full powers of a Magistrate throughout the General Police District; but shall exercise those powers subject to such limitation as may from time to time be imposed by the Local Government.

Deputy Inspector General, &c., may be vested with powers of a Magistrate.

VI. The Local Government may vest any Deputy Inspector General, Assistant Inspector General, District Superintendent, or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper; but such Officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders, in order to their being brought before a Magistrate, and, so far as may be necessary, for the performance of the duties assigned to them by this Act.

In what cases those powers shall be exercised.

Inspector General, &c., to appoint and dismiss.

VII. The appointment of all Police Officers other than those mentioned in Section IV. of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector General, Deputy Inspector General, Assistant Inspectors General, and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same, or fine any Police Officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Police Officers to receive certificates of Office.

VIII. Every Police Officer so appointed shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector General, or such other Officer as the Inspector General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions, and privileges of a Police Officer. Such certificate shall cease to have

effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the Police Force, and shall be immediately surrendered to the Supreme Officer of such person or to some other Officer empowered to receive the same.

Police Officers not to resign without leave or two months' notice.

IX. No Police Officer shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the District Superintendent, or by some other Officer authorised to grant such permission, or, without the leave of the District Superintendent, to resign his office, unless he shall have given to his Superior Officer notice in writing, for a period of not less than two months, of his intention to resign.

Police Officers not to engage in other employment.

X. No Police Officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

Police Superannuation Fund.

XI. There shall be deducted from the pay of every Police Officer of a Class not entitled to the benefit of the Uncovenanted Service Pension Rules, a sum after such rate as the Local Government shall direct, not being a greater rate than one anna in the Rupee. The sum so deducted, together with the amount of any saving from the stoppages from the pay of Police Officers during absence from sickness or other cause, and of fines imposed on Police Officers for misconduct and by Magistrates upon drunken persons, or for assaults upon Police Officers, and any money arising from the sale of worn or cast off clothing or other articles supplied for the use of the Police, or from any other source which shall be authorised by the Local Government, shall, from time to time, be invested in such manner and in such securities as the Local Government may direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes herein mentioned, shall be likewise invested as aforesaid and accumulate, so as to form a fund to be called "The Police Superannuation Fund," and shall be applied from time to time to the payment of superannuation or retiring allowances or gratuities, under such rules as may be passed by such Local Government. Provided that any Police Officer may be dismissed or removed

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without a superannuation allowance, and that no Police Officer shall be entitled as of right to any allowance from the said fund, or shall retain any right to a refund of any deduction made from his pay while he shall have been a Police Officer.

Inspector General to make Rules.

XII. The Inspector General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall deem expedient, relative to the organization, classification, and distribution of the Police Force, the places at which the Members of the Force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police Force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such Force efficient in the discharge of its duties.

Additional Police Officers employed at the cost of individuals.

XIII. It shall be lawful for the Inspector General of Police, or any Deputy Inspector General, or Assistant Inspector General, or for the District Superintendent, subject to the general direction of the Magistrate of the District on the application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police District, and for such time as shall be deemed proper. Such Force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application. Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General, or Assistant Inspector General, or to the District Superintendent, to require that the Police Officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Appointment of additional Force in the neighbourhood of Railway and other works.

XIV. Whenever any Railway, Canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation in any part of the country, and it shall appear to the

Inspector General that the employment of an additional Police Force in such place is rendered necessary by the behaviour, or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory, or concern, it shall be lawful for the Inspector General, with the consent of the Local Government, to depute such additional Force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory, or concern, for the payment of the extra Force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous Districts.

XV. It shall be lawful for the Inspector General of Police, with the sanction of the Local Government, to be notified by proclamation in the Government Gazette, and in such other manner as the Local Government shall direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any part of the General Police District which shall be found to be in a disturbed or dangerous state, or in any part of the General Police District in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of Police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional Police Force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional Police Force.

XVI. All moneys payable under the last three preceding Sections, on account of any additional Police Force employed as therein directed, shall be recoverable under the warrant of a Magistrate by distress and sale of the goods of the defaulter within the District of such Magistrate, or by suit in any competent Court; and the moneys paid on this account or so recovered shall be credited to a Fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the Local Government shall pass.

Special Police Officers.

XVII. When it shall appear that any unlawful assembly or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police Force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly, or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police Officer may require to act as Special Police Officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Powers of Special Police Officers.

XVIII. Every Special Police Officer so appointed shall have the same powers, privileges, and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary Officers of Police.

Refusal to serve as Special Police Officers.

XIX. If any person being appointed a Special Police Officer as aforesaid shall, without sufficient excuse, neglect, or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty Rupees for every such neglect, refusal, or disobedience.

Authority to be exercised by Police Officers.

XX. Police Officers, enrolled under this Act, shall not exercise any authority, except the authority provided for a Police Office under this Act and any Act which shall hereafter be passed for regulating Criminal Procedure.

Village Police Officers.

XXI. Nothing in this Act shall affect any Hereditary or other Village Police Officer, unless such Officer shall be enrolled as a Police Officer under this Act. When so enrolled, such Officer shall be bound by the provisions of the last preceding Section. No Hereditary or other Village Police Officer shall be enrolled without his consent and the consent of those who have the right of nomination. If any

Police Officer appointed under Act XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chowkeedars in Cities, towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal*) is employed out of the District for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that District.

Police Officers to be considered always on duty and may be employed in any part of the General Police District.

XXII. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police Officer in any part of the General Police District.

Duties of Police Officers.

XXIII. It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice; and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police Officer, for any of the purposes mentioned in this Section, without a warrant, to enter and inspect any drinking shop, gaming house, or other place of resort of loose and disorderly characters.

Police Officer may lay informations, &c.

XXIV. It shall be lawful for any Police Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant, or such other legal process as may by law issue against any person committing an offence; and to prosecute such person up to final judgment.

Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.

XXV. It shall be the duty of every Police Officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District. The Police Officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

Magistrate may detain property and issue proclamation.

XXVI. The Magistrate of the District may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring

any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Confiscation of property if no claimant appear.

XXVII. If no person shall within the period allowed claim such property, it may be sold under the orders of the Magistrate of the District and the proceeds shall be at the disposal of Government.

Persons refusing to deliver up certificate, &c., on ceasing to be Police Officers.

XXVIII. Every person, having ceased to be an enrolled Police Officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or to both.

Penalties for neglect of duty, &c.

XXIX. Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority; or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his Police duty; or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labor, for a period not exceeding three months, or to both.

Regulation of Public procession, &c.

XXX. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets, or thoroughfares; and prescribe the routes by which, and the times at which, such processions may pass. They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Police to keep order in public roads, &c.

XXXI. It shall be the duty of the Police to keep order on the public roads, and in the public streets, thoroughfares, ghauts, and landing places,

and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut, or landing place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last two Sections, &c.

XXXII. Every person opposing, or not obeying the orders issued under the last two preceding Sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred Rupees.

Control of the Magistrate of the District under last three Sections.

XXXIII. Nothing in the last three preceding Sections shall be deemed to interfere with the general control of the Magistrate of the District over the matters referred to therein.

Certain duties of Police Officers.

Obstructions and nuisances in roads.

XXXIV. Any person who, on any road or in any street or thoroughfare within the limits of any Town to which this Section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty Rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any Police Officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely:—

Slaughtering cattle, furious riding, &c.

First.—Any person who slaughters any cattle or cleans any carcase; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle.

Cruelty to animals.

Second.—Any person who wantonly or cruelly beats, abuses, or tortures any animal.

Obstructing passengers.

Third.—Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or

setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Exposing goods for sale on roads.

Fourth.—Any person who exposes any goods for sale.

Throwing dirt into street.

Fifth.—Any person who throws or lays down any dirt, filth, rubbish, or any stones or building material; or who constructs any cowshed, stable, or the like, or who causes any offensive matter to run from any house, factory, dung-heap, or the like.

Being found drunk in any thoroughfare.

Sixth.—Any person who is found drunk or riotous, or who is incapable of taking care of himself.

Indecent exposure of person.

Seventh. Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

Neglect to protect dangerous places.

Eighth.—Any person who neglects to fence in, or duly to protect any well, tank, or other dangerous place or structure.

Jurisdiction.

XXXV. In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict; provided that any charge against a Police Officer above the rank of a Constable under this Act shall be enquired into and determined only by an Officer exercising the powers of a Magistrate.

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Power to prosecute not affected.

XXXVI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

Proviso.

Levy of forfeiture and penalties by distress.

XXXVII. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment

thereof, be levied by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order.

Procedure until return is made to warrant of distress.

XXXVIII. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of distress not sufficient.

XXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XL. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to Police and informers payable to General Police Fund.

XLI. All sums paid for the service of process by Police Officers, and all rewards forfeitures, and penalties, or shares of rewards, forfeitures, and penalties which by law are payable to

informers, shall, when the information is laid b
be paid into the General Police Fund.

XLII. All actions and prosecutions agai
which may be lawfully brough
done or intended to be dom
provisions of this Act, or under the general P
hereby given, shall be commenced within three mon
act complained of shall have been committed and no
and notice in writing of such action and of the cause th
be given to the defendant, or to the District Superinte
tant District Superintendent of the District in w
committed, one month at least before the commen
of the action. No plaintiff shall recover i
such action if tender of sufficient amends s
have been made before such action brought or if a sufficie
sum of money shall have been paid into Court after such acti
brough

Limitation of action.

Tender of amends.

shall
shall n

have costs against the defendant, unless the Judge before
the trial is held shall certify his approbation of the action.
Provided always that no action shall in any
case lie where such Officer shall have been
prosec
XL
ted criminally for the same act.

Proviso.

Plea th
under a w
XLIII. When any action or prosecution shall be brought or
any proceeding held against any Police
Officer for any act done by him in such
capaci
y, it shall be lawful for him to plead that such act was
done by him under the authority of a warrant issued by a
Magistrate. Such plea shall be proved by the production of the
warrant directing the act, and purporting to be signed by such
Magistrate, and the defendant shall thereupon be entitled to a
decre in his favour, notwithstanding any defect of jurisdiction in
such Magistrate. No proof of the signature of such Magistrate
be necessary, unless the Court shall see reason to doubt its
being genuine. Provided always that any
remedy which the party may have against the
auth
ity issuing such warrant shall not be affected by any thing
cont
xpressed in this Section.

that at act was done
warrant.

Proviso.

XLIV. It shall be the duty of every

Police Station to keep a General
such form as shall, from time to
e Local Government, and to record th
charges preferred, the names of all
names of the complainants, the offences
the weapons or property that shall have be
ssession or otherwise, and the names of the w
ave been examined. The Magistrate of the
liberty to call for and inspect such Diary.

Government d to prescribe of Returns.

The Local Government may direct the submi
such Returns by the Inspector Gene
other Police Officers as to such
Government shall seem proper, an
scribe the form in which such returns shall be made.

Scope of Act.

XLVI. This Act shall not take effect in any Pres
Province, or place, unless the same s
xtended to such Presidency, Provin
place by the G
General of India in Council by an o
be published in the "Government Gazette." When the Ac
have been extended, it shall be carried into effect in
Presidency, Province, or place as the Local Government,
order to be published in the "Official Gazette," shall direc

Authority of District Superintendent of Police over Village Police.

XLVII. It shall be lawful for the Local Governm
carrying this Act into effect in any part
territories subject to such Local Gover
to declare that any authority which
or may be exercised by the Magistrate of the District ov
Village Watchman or other Village Police Officer for the p
of Police, shall be exercised, subject to the general control
Magistrate of the District, by the District Superintend
Police.

FORM (*See Section VIII.*)

A. B. has been appointed a Member of the Police I
under Act V. of 1861, and is vested with the powers, func
and privileges of a Police Officer.

Act XIII, 1861, temporarily regulated the Procedu
the Police; it expired 1st January, 1862; on w
date Act XXV., 1861, The Code of Crim
Procedure, came into operation.

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INDIAN PENAL CODE.

ACT No. VI. OF 1861.

[*Received the assent of the G. G. on the 9th April*, 1861.

1, 2. Postpones date for the Indian Penal Code coming into operation to 1st Jannary, 1862; and (2) Indian Penal Code to be as if this date were in it.

An Act to alter the time from which the Indian Penal Code shall take effect.

Penal Code to take effect on 1st Jan., 1862.

I. Act XLV. of 1860, called the Indian Penal Code, shall not take effect until the First day of January, 1862, and shall take effect on and from that day.

Construction.

II. Every part of the said Act, in which the First day of May, 1861, is mentioned, shall be read and construed as if the First day of January, 1862, had been mentioned therein, instead of the First day of May, 1861.

BOMBAY.—SALT DUTY.

ACT No. VII. OF 1861.

[*Received the assent of the G. G. on the 22nd April*, 1861.

Recites expediency of raising the Salt duty in Bombay.

1. Repeals so much of ss. 2 and 6 of Act XVI., 1844, and of s. I. of Act XXXI., 1850, and of Schedule to Act XXII., 1859, as limits the duty to 1 Rupee per maund in Bombay.

2, 3. Empowers the Governor General in Council to order an Excise duty of 1 Rupee eight annas on manufactured and same on imported Salt; and (3) gives to such order the force of law.

4. Gives retrospective effect to the increased duty where levied from 13th April, 1861.

An Act to empower the Governor General in Council to increase the rate of duty leviable on Salt manufactured in, or imported into, any part of the Presidency of Bombay.

Preamble.

Whereas it has been found to be expedient to increase the rate of duty to be levied on Salt manufactured in, or imported either by sea or by land into, the Presidency of Bombay, it is enacted as follows:

Laws repealed.

I. So much of Sections II. and VI. of Act XVI. of 1844, and of Section I. of Act XXXI. of 1850, and of the Schedule to Act XXII. of 1859, as

prescribe the levy of a duty of one Rupee per maund on Salt manufactured in, or imported into, the Bombay Presidency, is repealed.

Rates of Excise and Import duties on Salt in Bombay.

II. It shall be lawful for the Governor General in Council to order the levy, from and after the passing of this Act, of an Excise duty not exceeding one Rupee and eight annas per maund on Salt manufactured in, and a Customs duty not exceeding one Rupee and eight annas per maund on Salt imported either by sea or by land into any part of the Bombay Presidency.

Order issued by the Governor General in Council on 13th April, 1861, authorizing increase of duty ratified.

III. The order issued by the Governor General of India in Council on the 13th day of April 1861, authorizing an increase of duty within the limit aforesaid, shall have the same force and effect as if it had been issued after the passing of this Act.

Indemnity.

IV. Every Collector of Customs or other Officer is hereby indemnified for every thing done on or after the said 13th day of April, 1861, in collecting or enforcing the duty imposed under the provisions of this Act, or by virtue of the said order of Government, or in otherwise carrying this Act into effect, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

AMHERST.—PORT-DUES.

ACT No. VIII. OF 1861.

[*Received the assent of the G. G. on the 24th April*, 1861.

Recites expediency of fixing the Port-dues under Act XXII., 1855.

1—3. Authorizes rate not exceeding 2 annas per ton on vessels of 10 tons and upwards; and (2) half rates for vessels entering from stress of weather, &c., and not discharging; and (3) entirely exempts vessels from the Port re-entering from stress of weather.

4. No vessel chargeable more than once in 60 days.

5. Act to commence from 1st July, 1861, after which all other Port-dues to cease, and Local Government to declare the new Port-dues in the "Gazette."

6. Act to be read as part of Act XXII., 1855.

An Act for the levy of Port-dues in the Port of Amherst.

Repealed by Act IX., 1864.

CIVIL COURT PROCEDURE.—MINORS.

ACT No. IX. OF 1861.

[*Received the assent of the G. G. on the 24th April*, 1861.

Recites the expediency of amending the Law for hearing suits relative to custody, &c., of Minors.

1—3. Relative, &c., of minor desiring to prefer claims as to custody, &c., of minor, may apply by petition to the principal Civil Court, which, if satisfied with grounds, shall give notice of application to person named in petition; and (2) may direct that the minor be produced in Court on day named; when (3) the case shall be heard and order made upon it as to the custody, &c., of the minor and costs.

4. Procedure under Act VIII., 1859, to be followed as far as applicable.

5, 6. Gives appeal from order to the Sudder; and (6) order not to be contested in regular suit.

7. Act not to interfere with jurisdiction of Supreme Court or Court of Wards, &c.

8. Interprets word "Sudder."

An Act to amend the law relating to Minors.

Preamble.

Whereas it is expedient to amend the Law for hearing suits relative to the custody and guardianship of minors, it is enacted as follows:

Application.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition, either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the petitioner, or his agent if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

Production, and temporary custody and protection of minor.

II. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or

in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Court, after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.

III. On the day appointed for the hearing of the petition, or as soon after as may be practicable, the Court shall hear the statements of the parties, or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

Procedure.

IV. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

Appeal.

V. An appeal shall lie to the Sudder Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a Stamp paper of the value prescribed for petitions to the Sudder Court.

Orders passed under this Act not liable to be contested in a regular suit.

VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

Saving of Laws.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the Laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI. of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George*), and Act XL. of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*).

VIII. The term "Sudder Court" in this Act shall denote the highest Court of Appeal in any part of the British territories in India.

Interpretation.

CODE OF CIVIL PROCEDURE.

ACT NO. X. OF 1861.

[*Received the assent of the G. G. on the 29th April*, 1861.

Recites the enactment of a Code of Procedure by Act VIII., 1859, for Courts not established by Royal Charter, and limitation of the Code to Regulation Provinces unless extended by the Local Government.

1. Repeals as to Regulation Provinces and as to Non-Regulation Provinces to which the said Code is extended, specified Acts and Regulations in chronological order.

An Act to repeal certain Regulations and Acts relating to the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

Whereas by Act VIII. of 1859 a Code of Procedure is provided for the Courts of Civil Judicature not established by Royal Charter; and whereas it is enacted by Section 387 of the said Act that the Act shall come into operation in the Presidency of Bengal from the 1st day of July, 1859, and in the Presidencies of Madras and Bombay from the 1st day of January, 1860, or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency, three months at least before the date so fixed: And it is also enacted by Section 385 of the said Act, that the Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the Gazette: and whereas it is expedient to repeal in the manner hereinafter provided certain Regulations and Acts and parts of Regulations and Acts relating to the Procedure of the said Courts, it is enacted as follows:

Repeal of Laws.

I. In the Presidencies of Bengal, Madras, and Bombay, and in any other part of the British territories in India to which Act VIII. of 1859 (*for*

simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter), has been or shall be extended before the 1st May, 1861, the several Regulations and Acts and parts of Regulations and Acts set forth in the Schedule hereto, except in so far as they repeal the whole or any part of any other Regulation or Act, shall to the extent expressed in the said Schedule be repealed from the said 1st May, 1861, and so far as they relate to any part of the said territories to which the said Act VIII. of 1859, has not been extended, then from the time when the said Act shall be extended to such part by a Notification in the Gazette by the Governor General of India in Council or by the Local Government to which such territory is subordinate.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Act V., 1836 - - - - - -	The whole Act.
Act XI., 1836 - - - - -	In so far as the Act is applicable to any suit or other proceeding under Act VIII. of 1859.
Act XXIV., 1836 - - - - -	Section V. in so far as the Section is applicable to any suit or other proceeding under Act VIII. of 1859.
Act III., 1837 - - - - -	The whole Act.
Act XXV., 1837 - - - - -	Sections III. and IX.
Act XXXV., 1837- - - - -	The whole Act.
Act VII., 1838 - - - - -	The whole Act.
Act XVII., 1838 - - - - -	The whole Act
Act XXII., 1838 - - - - -	The whole Act.
Act XXVII., 1838 - - - - -	The whole Act.
Act III., 1839 - - - - -	In so far as the Act is applicable to a suit or proceeding under Act VIII. of 1859.
Act IX., 1839 - - - - -	The whole Act.
Act XIX., 1840.—An Act for amending the procedure in cases of appeals made in *formâ pauperis* within the Presidency of Fort William in Bengal.	The whole Act.
Act VII., 1841.—An Act for a more uniform and an improved process for taking the examination of absent witnesses.	The whole Act.
Act XVII., 1841.—An Act for amending the proceedings in appeals before the Courts of Sudder Dewanny and Nizamut Adawlut in the Presidency of Fort William in Bengal.	Section II., so far as it relates to the Sudder Dewanny Adawlut.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Act XXIX., 1841.—An Act for amending such parts of the Bengal and Madras Codes as concern the dismissal of suits and appeals for neglecting to proceed in the same.	The whole Act.
Act II., 1843.—An Act to regulate the sittings of the Courts of Sudder Dewanny Adawlut.	The whole Act in so far as the Act is applicable to suits or proceedings under Act VIII. of 1859.
Act VI., 1843.—An Act for amending the Law concerning the jurisdiction and procedure of the Courts of Ameens and Moonsiffs.	The whole Act.
Act VII., 1843.—An Act for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I., II., and Regulations VII., and VIII., of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil jurisdiction of such Courts.	Sections X., XI., XIV., Clause 1st of Section XVII., Sections XVIII., XIX., and XXV.
Act XII., 1843.—An Act concerning the time at which, and the language in which the decisions of the Judges in the Courts of the East India Company are to be written.	The whole Act.
Act IX., 1844.—An Act for authorizing the institution of suits in the Courts of the Principal Sudder Ameens and Sudder Ameens.	The whole Act, except Section III.
Act III., 1845.—An Act vesting Courts of Appeal with the discretion to require or dispense with security for costs from the Appellant.	The whole Act.
Act VIII., 1845.—An Act for amending Section LXXV., and Chapter XVII. of Regulation IV., 1827, of the Bombay Code.	The whole Act.
Act XV., 1845.—An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.	Sections I., III., IV., and V.
Act XVI., 1845.—An Act for regulating the re-admission of Appeals after dismissal under Act XXIX. of 1841.	The whole Act.
Act XVII., 1845.—An Act for the better enforcement of the attendance of witnesses in the Courts of the Moonsiffs, within the Presidency of Fort William in Bengal.	The whole Act.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Act IV., 1846.—An Act for amending the Law regarding the sale of land in execution of decrees in the Territories subject to the Presidency of Fort William in Bengal.	The whole Act.
Act XVII., 1847.—An Act for remedying a defect in the Law regarding undiscovered defaults in the prosecution of suits.	The whole Act.
Act III., 1850.—An Act for amending the Law concerning the jurisdiction of the Courts of Sudder Ameens and District Moonsiffs in the Presidency of Fort St. George.	The whole Act.
Act VIII., 1850.—An Act to amend the Law for enabling Zillah and City Judges Principal and Sudder Ameens, in certain cases of appeal, to confirm the decision without summoning the respondent.	The whole Act.
Act XV., 1850.—An Act to extend the operation of Sections X. and XII., Regulation XXVI., 1814, of the Bengal Code.	The whole Act.
Act XXV., 1850.—An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII., 1819, and Act IV. of 1846.	The whole Act so far as it relates to forfeited deposits of sales of land, or any interest in land in execution of decrees.
Act VII., 1851.—An Act to amend the law of the Bombay Presidency relating to execution of decrees.	The whole Act.
Act XXV., 1852.—An Act for the execution of decrees made in Appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal.	The whole Act, except so far as it relates to the execution of decrees made in Appeal by Her Majesty in Council.
Act XXVI., 1852.—An Act to amend the mode of procedure in the Courts of the Sudder Ameens and Moonsiffs in the Presidency of Fort William in Bengal, and to extend the powers of Principal Sudder Ameens in Appeals referred to them.	The whole Act.
Act XXXIII., 1852.—An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	The whole Act, except so far as it relates to the enforcement of judgments by any Court established by Royal Charter, and also except so far as it relates to the enforcement of decrees of Military Courts of Requests.
Act XV., 1853.—An Act for the amendment of procedure in cases of regular appeal to the Sudder Courts in the Presidency of Fort William in Bengal.	The whole Act.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Act XVI., 1853.—An Act for amending the law of Special Appeals.	The whole Act.
Act XIX., 1853.—An Act to amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.	The whole Act so far as it is applicable to any suit or other proceeding instituted under Act VIII. of 1859, except Sections XIX. and XXVI. of Act XIX. of 1853.
Act IX., 1854.—An Act relating to Appeals in the Civil Courts of the East India Company.	In so far as the Act is applicable to any suit or proceeding under Act VIII. of 1859.
Act XXXIII., 1854.—An Act to extend the provisions of Act No. XII. of 1843.	So much of the Act as is applicable to any suit or other proceeding instituted under Act VIII. of 1859.
Act II., 1855.—An Act for the further improvement of the law of evidence.	Sections XXV. and XXVI. in so far as the Sections are applicable to any suit or proceeding under Act VIII. of 1859.
Act IX., 1855.—An Act for the amendment of procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.	The whole Act.
Act X., 1855.—An Act to amend the law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL., Act XIX. of 1853.	The whole Act, except Sections IX. and X.
Act XXXIV., 1855.—An Act to explain and amend Act No. XXXIII. of 1852.	The whole Act, except so far as it relates to the enforcement of judgment by any Court established by Royal Charter.
Act XII., 1856.—An Act to amend the law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.	Sections VI. and VII.
BENGAL.	
Regulation III., 1793.—A Regulation for extending and defining the jurisdiction of Dewanny Adawlut, or Courts of Judicature for the trial of Civil suits in the first instance, established in the several Zillahs and the Cities of Patna, Dacca, and Moorshedabad.	Sections VII., VIII., IX., X., XI., XII., XIII., XV., XVI., XVIII., XIX., and XX.
Regulation IV., 1793.—A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs and in the cities of Patna, Dacca, and Moorshedabad.	Sections I., II., III., IV., V., VI., except so much as relates to the administering oaths to parties and witnesses; VII., VIII., X., XI., XII., XIII., XVI., XVIII., XIX., XXI., and XXVI.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation V., 1793.—A Regulation for establishing four Provincial Courts of Appeal for hearing Appeals from decisions passed in the several Zillahs and the three City Courts, and defining their powers and duties, and prescribing rules for receiving and deciding upon appeals and other causes of which they are declared to have cognizance.	The whole Regulation.
Regulation VI., 1793.—A Regulation for extending and defining the powers and duties of the Court of Sudder Dewanny Adawlut, and prescribing rules for receiving and deciding upon appeals from the decisions of the Provincial Courts of Appeal.	Sections IV., V., VI., VII., IX., X., XI., XII., XV., XVI., and XVII., except so much as relates to the administering oaths; XVIII., XIX., XXI., XXII., XXVIII., XXIX., and XXX.
Regulation XVI., 1793.—A Regulation for referring suits to arbitration and submitting certain cases to the decision of the Nazim.	The whole Regulation.
Regulation VII., 1795.—A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying Civil suits in the first instance, at the City of Benares, and at Mirzapore Ghazeepore, and Jaunpore, in the Province of Benares, and for defining the jurisdiction and powers of those Courts.	Sections VII., IX., X., and XI., except so far as it extends Section XXI., Regulation III., 1793, and Section XII.
Regulation VIII., 1795.—A Regulation for extending to the Province of Benares, with alterations and modifications, Regulation IV., 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants.	Section II., in so far as it extends the provisions of Regulation IV., 1793, which are repealed by this Act.
Regulation IX., 1795.—A Regulation for establishing a Provincial Court of Appeal in the Province of Benares for hearing appeals from decisions passed in the City Court and the Zillah Courts in that Province, and defining its powers and decrees, and prescribing rules for receiving and deciding upon appeals and other causes of which it is declared to have cognizance.	The whole Regulation.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation X., 1795.—A Regulation for empowering the Sudder Dewanny Adawlut to receive and decide upon appeals from decisions of the Provincial Court of Appeal established in the Province of Benares, and for defining the jurisdiction, powers, and authorities of the Sudder Dewanny Adawlut in that Province.	Section II. in so far as it extends the provisions of Regulation VI., 1793, which are repealed by this Act, and Section III.
Regulation XV., 1795.—A Regulation for extending to the Province of Benares Regulation XVI., 1793, entitled "A Regulation for referring suits to arbitration, and submitting certain cases to decision of Nazim, with the exception of Section X., and for referring certain cases to the decision of the Rajah of Benares.	Section II.
Regulation XXXVI., 1795.—A Regulation for repealing Section VII., Regulation VIII., 1794, and empowering the Judges of the Zillah and City Courts to hear Appeals from decisions which may be passed by their Registrars under that Regulation, and rendering final the decisions of the Judges in all such Appeals where the suit may be for money or personal property; for making final the decrees of the Judges of the Zillah and City Courts, in Appeals from decisions passed by the Native Commissioners appointed under Regulation XL., 1793, for rendering Surburakars, or Managers of joint undivided estates, eligible to the Office of Commissioner for hearing and deciding suits under Regulation XL., 1793, for providing against the loss or miscarriage of the proceedings in trials referred by the Judges of Circuit to the Nizamut Adawlut, or the sentences or orders of that Court on such trials; and for establishing another Court of Dewanny Adawlut in the Districts now comprised in the Zillah of Burdwan.	The whole Regulation, except Section VI.
Regulation LIV., 1795.—A Regulation for extending to the Province of Benares the Rules contained in certain Sections of Regulations VIII., 1794, and XXXVI., 1795, with modifications.	The whole Regulation.
Regulation XIII., 1796.—A Regulation for repealing such parts of Regulations V. and VI., 1793, as authorise the execution of decrees passed by the Zillah and City Courts in the Provinces of Bengal, Behar, Orissa, and Benares, although appealed from to the Provincial Courts, and of decrees passed by the Provincial Courts appealed from to the Sudder Dewanny Adawlut.	The whole Regulation.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation XII., 1797.—A Regulation for the further limitation of Appeals to the Court of Sudder Dewanny Adawlut in suits for personal property; and for altering and explaining part of the existing Rules for Appeals to that Court and to the Provincial Courts of Appeal.	The whole Regulation.
Regulation XIX., 1797.—A Regulation for empowering the Provincial Courts of Appeal to require the Zillah and City Courts to furnish translations of the proceedings held therein in causes appealed to the Sudder Dewanny Adawlut, and for providing for the translation of the papers and proceedings in such causes when the same cannot be made in due time by the Registrars and Assistants to the respective Courts.	The whole Regulation.
Regulation II., 1798.—A Regulation authorising a review of causes decided by the Civil Courts in certain cases; and for explaining parts of Regulations IV., V., and VI., 1793.	Sections V., VI., VII., VIII., IX., and X.
Regulation V., 1798.—A Regulation for the further limitation of Appeals to the Court of Sudder Dewanny Adawlut, for providing further security during Appeals in certain cases; and for explaining and amending certain parts of the existing Regulations relative to the fee payable to Government on the institution of suits in the Civil Courts, and the fees of the Pleaders in those Courts; also for discontinuing the records of decided causes required by Sections X. and XIV., Regulation XVIII., 1793.	The whole Regulation.
Regulation III., 1800.—A Regulation for authorising the Zillah Judges to refer to the Registrars of their Courts, Appeals from certain decisions of the Native Commissioners appointed under Regulation XL., 1793.	The whole Regulation.
Regulation II., 1801.—A Regulation for the more speedy and effectual administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut.	Section VI., in so far as it relates to suits or proceedings under Act VIII. of 1859.
Regulation III., 1802.—A Regulation for defining the security to be required from defendants in Civil causes, and for amending part of the existing rules concerning the trial of Civil suits preferred by paupers.	The whole Regulation.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation II., 1803.—A Regulation for establishing and defining the jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the trial of Civil suits in the first instance in the Province ceded by the Nabob Vizier to the Honorable the English East India Company.	Sections IV., V., VI., VII., IX., X., XV., XVI., and XX.
Regulation III., 1803.—A Regulation for receiving, trying, and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nabob Vizier to the Honorable the English East India Company.	Sections II., III., IV., V., VI., and VII., except so much of it as relates to the administering of oaths to parties and witnesses, IX., X., XII., XIII., XIV., XV., XVII., XVIII., XIX., XX., XXVII., XXVIII., and XXIX.
Regulation IV., 1803.—A Regulation for establishing a Provincial Court of Appeal for hearing Appeals from decisions passed in the several Zillah Courts established in the Provinces ceded by the Nabob Vizier to the Honorable the English East India Company; and for defining the powers and duties of the said Court; and for prescribing rules for receiving and deciding upon Appeals and other causes of which the Court is declared to have cognizance.	The whole Regulation.
Regulation V., 1803.—A Regulation for empowering the Sudder Dewanny Adawlut to try Appeals from the decisions of the Provincial Court of Appeal, established in the Provinces ceded by the Nabob Vizier to the Honorable the English East India Company; and for extending the Jurisdiction of the Sudder Dewanny Adawlut over the said Provinces, and all the Civil Courts established therein.	Sections IV., V., VI., VII., X., XI., XII., XIV., XV., XVI., XVIII., XIX., XX., XXI., XXII., XXVIII., XXIX., and XXXVII.
Regulation XXI., 1803.—A Regulation for referring suits to arbitration, in the Provinces ceded by the Nabob Vizier to the Honorable the English East India Company.	The whole Regulation.
Regulation L., 1803.—A Regulation for extending with modifications to the Criminal Courts the rules prescribed in Regulation IV., 1793, for procuring the attendance of witnesses, and requiring oaths and solemn declarations from witnesses in the Civil Courts; and for explaining those rules in their application to particular forms of oath by the Courts, Civil and Criminal.	Clause 2, of Section II., so far as it relates to the Civil Courts.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation II., 1805.—A Regulation to explain the existing limitation of time for the cognizance of suits in the Civil Courts of Justice, to provide further limitations with respect to certain suits regular and summary; and to make other provisions relative to the admission and trial of original suits, and of appeals.	Sections VIII., IX., X., XI., XII., and XIV.
Regulation XIV., 1805.—A Regulation for the administration of justice in Civil cases, in the Zillah of Cuttack.	Section XI., so far as it applies to Civil Courts, except the Proviso.
Regulation XV., 1805.—A Regulation for the appointment of the Mahomedan and Hindoo Law Officers of the Zillah and City Courts to be Commissioners for the trial of referred causes, to the amount or value of one hundred Sicca Rupees; and to make further provision for the appointment of Head Native Commissioners in the several Zillahs and Cities.	The whole Regulation.
Regulation II., 1806.—A Regulation for explaining and amending in certain cases the rules of process to be observed by the Civil Courts of Judicature.	The whole Regulation.
Regulation XII., 1806.—A Regulation for annexing the Pergunnahs of Sonk, Sonsa, and Sahar, situated on the right bank of the river Jumna, to the jurisdiction of the Zillah of Agra; and for extending to those Pergunnahs the Laws and Regulations established for the internal Government of the ceded and conquered Provinces.	So much of it as extends to the territories therein named, the provisions of Regulation VIII., 1805, and the Regulation therein referred to which are repealed by this Act.
Regulation I., 1807.—A Regulation for defining the duties to be performed and powers exercised by single Judges of the Provincial Courts of Appeal in the absence of the other Judges of the Court.	The whole Regulation.
Regulation XIII., 1808.—A Regulation for rendering Civil causes, which are appealable to the Court of Sudder Dewanny Adawlut, cognizable in the first instance by the Provincial Courts, and for authorising the execution of decrees appealed from in certain cases.	The whole Regulation
Regulation XIII., 1810.—A Regulation for expediting the trial and decision of causes depending in the Civil Courts, and for promoting the amicable adjustment of Civil suits.	The whole Regulation.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation IV., 1812.—A Regulation to enable the Governor General in Council to institute or defend, through the medium of the Public Officers of Government, actions in which Native Princes, whom it would be improper to require to appear as plaintiffs or defendants in the Courts of Judicature, may be parties.	The whole Regulation.
Regulation VI., 1813.—A Regulation for referring to arbitration suits and contests respecting land, and for amending the rules before established regarding forcible dispossession of land.	The whole Regulation.
Regulation II., 1814.—A Regulation for modifying the rules before established for the trial of suits proposed to be instituted against any of the Public Officers who have been declared amenable for acts connected with the discharge of their official duties to the jurisdiction of the Courts of Civil Judicature.	The whole Regulation.
Regulation XXIII., 1814.—A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Moonsiffs or Native Commissioners, and of Sudder Ameens or Head Commissioners, for modifying and extending their respective powers in the trial and decision of Civil suits, and for authorising them to discharge certain additional duties under the direction of the Zillah and City Judges.	Clause 3, of Section XIII., Sections XIV., XVII., XVIII., XX., Clause 4, of Section XXV., XXVIII., XXX., Clause 3, of Section XXXI., XXXIII., XXXVI., XXXVIII., XXXIX., XL., XLI., XLV., and XLVI., except so far as it enacts that any person dissatisfied with the decision of a Moonsiff shall be at liberty to appeal; and Sections XLVII., L., so much of Section LI. as is now in force, Sections LIII., LIV., LXIX., LXXI., LXXII., LXXIII., LXXIV., LXXV., LXXVI., LXXVII., and LXXVIII.
Regulation XXIV., 1814.—A Regulation for abolishing the Office of Assistant Judge of the Zillah and City Courts, and for making certain modifications in the constitution and jurisdiction of those Courts.	The whole Regulation.
Regulation XXV., 1814.—A Regulation for modifying the constitution and jurisdiction of the Sudder Dewanny Adawlut and of the Provincial Courts, for expediting the trial of Civil causes in those Courts, and for defining more fully the powers of single Judges holding the sittings of those Courts, or of the Nizamut Adawlut and Courts of Circuit.	Sections I. to X. inclusive.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation XXVI., 1814.—A Regulation for modifying some of the rules at present in force regarding the admission and trial of special and summary Appeals from decisions passed in regular suits, for limiting and altering some of the existing provisions respecting the pleadings and processes and the mode of executing Decrees and regular suits and appeals, and for explaining and making certain additions to the provisions of Regulation I., 1814.	The whole Regulation except Section XIV.
Regulation XXVII., 1814.—A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.	Section XXVII.
Regulation XXVIII., 1814.—A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as paupers.	The whole Regulation.
Regulation II., 1815.—A Regulation for extending the provisions of Clause 7th, Section XII., Regulation XXIV., 1814.	The whole Regulation.
Regulation XV., 1816.—A Regulation for expediting the trial of Civil suits in which the Native Officers and Soldiers attached to regular Corps on the Military Establishment of the Presidency of Fort William may be parties, and for giving to them certain facilities in the maintenance of their rights, claims, and interests.	The whole Regulation.
Regulation III., 1817.—A Regulation for diminishing the expense to which parties are liable in original suits or appeals not exceeding sixty-four Rupees in value or amount when tried by the Zillah and City Judges, Registrars, or Sudder Ameens, and for modifying and explaining some of the rules contained in Regulation I., 1814, and in Regulation XXIII., 1814.	The whole Regulation.
Regulation XIX., 1817.—A Regulation for modifying and amending some of the Regulations in force relative to the administration of civil justice, and to the authorized summary process for recovery of arrears of rent.	So much as has not been already repealed.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation IX., 1819.—A Regulation for amending the existing rules with regard to the admission of special Appeals, for requiring in certain cases from residents within the limits of Calcutta, security for eventual costs of suit, and for extending the powers of the Zillah and City Registrars, and the Registrars of the Provincial Courts in certain cases.	The whole Regulation.
Regulation II., 1821.—A Regulation for increasing the powers of Moonsiffs, for extending in special cases the powers of Sudder Ameens in the trial and decision of Civil suits, and for authorising the Zillah and City Registrars and Sudder Ameens to discharge certain additional duties under the direction of the Zillah and City Judges, for providing an increase in the number of Moonsiffs when necessary, and for authorizing Sudder Ameens to hold their Cutcherries at any place where there may be a Registrar holding his Court at a distance from the fixed Station of the Judge and Magistrate; also for amending the rules at present in force for the institution of suits connected with the local jurisdiction of such Registrars, for rescinding such parts of the existing Regulations as authorize the Registrars of Civil Courts to receive a proportion of the institution fees on suits which may be referred to them for decision, for altering, in certain cases, the rule at present in force for the execution of decrees of the Provincial Courts in original suits, and of the decrees of the Court of Sudder Dewanny Adawlut on appeals from such decrees, and for abolishing the Office of Registrar of the Provincial Courts of Appeal and Circuit.	The whole Regulation.
Regulation III., 1824.—A Regulation to empower Government to extend the jurisdiction of Registrars in certain cases.	The whole Regulation.
Regulation XI., 1824.—A Regulation for empowering the Zillah and City Judges and Magistrates to depute the Registrars or Assistants for the purpose of making local investigations in certain cases.	The whole Regulation so far as relates to the Civil Courts.
Regulation XIII., 1824.—A Regulation for making further provisions relative to the Office of Sudder Ameen.	The whole Regulation.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation I., 1825.—A regulation for declaring the Judicial Officers competent to superintend the execution of their own process in certain cases, and for extending to Officers entrusted with the execution of a Magistrate's warrant, or other Criminal process, the powers vested in Police Officers by certain provisions in Regulation XX., 1817.	So much of Section II. as relates to the Civil Courts.
Regulation II., 1825.—A Regulation for amending the rules in force relative to applications for a review of judgment in regular original suits and appeals, and for restricting the admission of special or second appeals by the Provincial Courts and Courts of Sudder Dewanny Adawlut.	The whole Regulation.
Regulation VII., 1825.—A Regulation to explain and amend the rules in force for the execution of decrees, or other Judicial process, by the sale of landed property or otherwise.	The whole Regulation.
Regulation IV., 1827.—A Regulation for extending, in special cases, the powers of Sudder Ameens in the trial and decision of Civil suits.	The whole Regulation.
Regulation XIII., 1829.—A Regulation for abolishing the Office of Superintendent and Remembrancer of legal affairs.	Section V.
Regulation XIV., 1829.—A Regulation for extending the rules contained in Section VII., Regulation IX., 1819, to the cases of persons resident within a Foreign Territory.	The whole Regulation.
Regulation VI., 1830.—A Regulation for modifying the provisions of Regulations now in force relating to the subsistence allowance to debtors confined in the Civil gaols in execution of decrees.	The whole Regulation.
Regulation V., 1831.—A Regulation for extending the powers of Moonsiffs and Sudder Ameens in the trial of Civil suits, and for authorizing the appointment of Principal Sudder Ameens at the Zillah and City Stations; for modifying the powers and duties of the Zillah, City, and Provincial Courts, in connection with those arrangements; and for enlarging the sphere of selection with regard to the offices of Moonsiff and Vakeel.	The proviso to Clauses 1 and 2 of Section V., Sections VII., VIII., IX., X., Clause 3 of Section XVI., proviso of Clause 1 of Section XVIII., and Clause 4 of same Section, Sections XIX., XX., XXI., XXII., XXIII., XXIV., XXV., XXVIII., and XXIX.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation IX., 1831.—A Regulation for the more speedy and efficient administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut.	Sections II., VIII., and so much of Section X., as extends those Sections to the Sudder Dewanny Adawlut for the North-Western Provinces.
Regulation VII., 1832.—A Regulation for modifying certain of the provisions of Regulation V., 1831, and for providing supplimentary rules to that enactment.	Sections II., III., VI., VII., X., XII., XIII., XIV., XV., XVI., and XVII.
MADRAS.	
Regulation II., 1802.—A Regulation for establishing and defining the jurisdiction of the Courts of Adawlut, or Courts of Judicature for the trial of Civil suits in the first instance in the British Territories immediately subject to the Presidency of Fort St. George.	Sections III., IV., V., VI., VII., VIII., IX., X., XV., XVI., XIX., XX., and XXI.
Regulation III., 1802.—A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several Zillahs immediately subject to the Presidency of Fort St. George.	Sections II., III., IV., V., VI., VII. (except so much as it relates to the administering of oaths to parties or witnesses, and except so far as it has been extended by Section II., Regulation I., of 1824), IX., X., XII., XIII., XIV., XV., XVII., XVIII., XIX., XX., XXVII., XXVIII., and XXIX.
Regulation IV., 1802.—A Regulation for establishing four provincial Courts of Appeal for hearing Appeals from decisions passed in the several Zillah Courts; and defining their powers and duties and prescribing rules for receiving and deciding upon Appeals and other causes of which they are declared to have cognizance.	The whole Regulation, except such part of Section XX. as relates to witnesses or parties guilty of wilful or corrupt perjury.
Regulation V., 1802.—A Regulation for constituting a Sudder Adawlut or Chief Court of Civil Judicature for trying Appeals from the decisions of the Provincial Courts of Appeal.	Sections IV., V., VI., VII., VIII., IX., X., XI., XII., XIII., XIV., XV., XVI., XIX., XX., XXI., XXII., XXVIII., and XXXVIII.
Regulation XXI., 1802.—A Regulation for referring suits to arbitration.	The whole Regulation.
Regulation XXIV., 1802.—A Regulation for governing the sale and sub-division of Malgoozary Lands in the British Territories subject to the Presidency of Fort St. George.	In so far as it relates to the execution of decrees of the Civil Courts.
Regulation IV., 1806.—A Regulation for the more speedy and the effectual administration of Justice in the Courts of Sudder Adawlut and Foujdaree Adawlut.	Section VII., so far as it relates to the Sudder Adawlut.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation VII., 1809.—A Regulation for the occasional appointment of Assistant Judges of the Zillah Courts; for altering and extending the Jurisdiction of the Registrars of these Courts; for fixing a new Limitation of appeals from the Zillah Courts to the Provincial Court of Appeal; for authorizing the appointment of Head Native Commissioners for the trial of referred causes to the amount or value of one hundred Arcot Rupees, and for amending the existing rules concerning the appointment and powers of Native Commissioners for the trial of suits for personal property not exceeding eighty Arcot Rupees.	The whole Regulation.
Regulation XII., 1809.—A Regulation for rendering Civil causes which are appealable to the Court of Sudder Adawlut cognizable in the first instance by the Provincial Courts, and for authorizing the execution of decrees appealed from in certain cases.	The whole Regulation.
Regulation II., 1811.—A Regulation for explaining and amending in certain cases the rules of process to be observed by the Civil Courts of Judicature, and for amending the Rule contained in Clause 4, Section IV., Regulation V. 1808.	The whole Regulation.
Regulation VI., 1816.—A Regulation for reducing into one Regulation the Rules which have been passed regarding the Office of Native Commissioners, for modifying and extending their powers in the trial and decision of Civil suits, and for authorizing them, under the designation of District Moonsiffs, to discharge certain additional duties.	Sections XII., XIII., XIV., XV., XVI., XVII., XVIII., XIX., XX., XXI., XXII., XXIII., XXIV., XXV., XXVI., XXVII., XXVIII., XXIX., XXX., XXXIII., XXXIV., XXXV., XXXVI., XXXVII., XXXVIII., XXXIX., XL., XLII., XLIV., XLV., XLVI., XLVII., XLVIII., LI., LII., LIII., from proviso in Clause 1, to the end, LIV., LVI., LVII., LVIII., LX., LXI., Clause 2 of Section LXII.
Regulation VIII., 1816.—A Regulation for the appointment of the Hindoo Law Officers of the Provincial Courts to be Sudder Ameens or Head Native Commissioners for the trial of Causes referred to them by the Judges of the Zillahs in which those Courts are stationed; for confining the Office of Sudder Ameen to the Hindoo Law Officers of the Provincial Courts and the Mahomedan and Hindoo Law Officers of the Zillah Courts, and for modifying and extending the power of Sudder Ameens in the trial and decision of Civil suits.	Sections VIII., X. and XIV.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation XIV., 1816.—A Regulation for amending and modifying the rules which have been passed regarding the Office of Vakeel, or Native Pleader in the Courts of Civil Judicature.	Sections XVI. and XVII.
Regulation XV., 1816.—A Regulation for modifying the jurisdiction of the Zillah and Provincial Courts, and the Court of Sudder Adawlut in the trial of original suits and appeals, for amending some of the rules at present in force regarding the admission and trial of Special and Summary Appeals, from decisions passed in regular suits, and for limiting and altering some of the existing provisions respecting the pleadings and processes and the mode of executing decrees in regular Suits and Appeals.	The whole Regulation, except so much of Clause 2 of Section VIII. as gives an appeal from a Sudder Ameen to a Judge.
Regulation VIII., 1817.—A Regulation for expediting the trial of Civil Suits in which the Native Officers and Soldiers attached to Regular Corps on the Military establishment of the Presidency of Fort St. George may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims, and interests.	The whole Regulation, except Section IX.
Regulation VII., 1818.—A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for admitting persons of certain descriptions to sue in the Courts of Civil Judicature as paupers.	The whole Regulation.
Regulation III., 1822.—A Regulation for extending the operation of Regulation VII. of 1818.	The whole Regulation.
Regulation I., 1823.—A Regulation prescribing the course of proceeding to be observed in regard to suits instituted in the Courts of Adawlut against the Public Officers of Government.	The whole Regulation.
Regulation II., 1823.—A Regulation for authorising a special Appeal from the Decrees of Registrars and Sudder Ameens, and for modifying the provisions of Section XIV., Regulation VIII., 1816.	The whole Regulation.
Regulation IV., 1825.—A Regulation for amending and modifying the provisions contained in Regulation VII. of 1818.	The whole Regulation.
Regulation I., 1827.—A Regulation for the establishment of auxiliary Zillah Courts in the territories subject to the Presidency of Fort St. George, and for the appointment of Assistant Judges and Sudder Ameens to those Courts.	Section IX., in so far as it relates to suits and proceedings under Act VIII. of 1859.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation VII., 1827.—A Regulation for constituting the office of Native Judge.	Clause 1 of Section V., in so far as it relates to suits and proceedings under Act VIII. of 1859.
Regulation XI., 1827.—A Regulation for supplying certain omissions in Regulations I. and VII., 1827, respecting special Appeals, and for providing for the Office of Sudder Ameen in auxiliary Courts seated at the same Station as Provincial Courts.	The whole Regulation.
Regulation VI., 1828.—A Regulation to amend the rules for computing the periods limited for appealing, and to provide for the disposal of Pleaders' Fees deposited in suits struck off the files of Zillah Courts as being for an amount or value not cognizable by them.	The whole Regulation.
Regulation IX., 1828.—A Regulation for rescinding such parts of the existing Regulations as prescribe forms for periodical Reports, Calendars, Registers, or other Statements, to be furnished by the Civil or Criminal Courts, and require the same to be forwarded.	Section III., in so far as it relates to the Civil Courts.
Regulation VIII., 1831.—A Regulation for vesting in single Judges of the Courts of Sudder and Foujdaree Adawlut and in single Judges of the Provincial Courts of Appeal, under certain restrictions, the power now exercised by two or more Judges of those Courts respectively.	Section IV.
Regulation I., 1832.—A Regulation to provide for the punishment of false allegations in petitions to the Judicial Courts and fictitious claims to property attached in execution of decrees.	The whole Regulation.
BOMBAY.	
Regulation II., 1827.—A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof.	Section VII., Section IX., Clause 1., Section X., Section XXI., except so much of Clause 1., as prohibits interference of the Civil Courts in Caste questions, Sections XXII., and XLI., except Clause 3 of the latter, Sections XLV., XLVI., and LI., except Clause 2 of the last.
Regulation III., 1827.—A Regulation containing provisions as to the official proceedings in general of Courts of Civil Justice, their sittings, the mode of communicating with them, the mode of keeping the minutes of their proceedings, the sealing, signing, and language of process, and the grant of copies of papers on their records.	Section III.

Act and Title of Regulation or Act.	*Extent of Repeal.*
Regulation IV., 1827.—A Regulation prescribing the forms of proceeding of the Courts of Law in Civil Suits and Appeals, and rules for the trial of the same.	The whole Regulation, except Sections XXIV., XXVI., XXVII., Clause 4, Sections XXXIV., LII., LIV., and LV., in as far as they qualify the same, Clauses 2 and 3 of Section LXIX., Clause 4 of Section LXXII., and Section C.
Regulation VI., 1827.—A Regulation for admitting persons to sue or defend in suits or appeals in *formâ pauperis*.	The whole Regulation.
Regulation VII., 1827.—A Regulation to facilitate the amicable adjustment of disputes of a Civil nature by means of arbitrators (a Punchayet).	The whole Regulation.

LIMITATION OF SUITS.

ACT No. XI. OF 1861.

[*Received the assent of the G. G. on the 1st May*, 1861.

1, 2. Suspends operation of Act XIV., 1859, till 1st January, 1862, as to suits pending or instituted before that date; and (2) postpones operation of Sections XIX., XXIII., till 1st January, 1862.

An Act to amend Act XIV. of 1859 (to provide for the limitation of suits).

Of temporary operation and now expired.

MOFUSSIL SMALL CAUSE COURTS.

ACT No. XII. OF 1861.

[*Received the assent of the G. G. on the 20th May*, 1861.

Recites expediency of amending Act XLII., 1860.

1—3. Local Government may invest Small Cause Court Judge with powers of Principal Sudder Ameen; and (2) with the powers of a Magistrate; and (3) with power to try under Act X., 1859, but not appeals.

4, 5. Court may appoint and remove a Clerk subject to approval of Government; whose duties (5) shall be as specified.

6—9. When there are more Small Cause Courts than one in a District, Government may constitute one the principal; whose Judge (7) may sit with the other Small Cause Court Judges of the District; and (8) when sitting

together, if they differ on a point of law, shall send it to the Sudder, subject to the rules of Small Cause Court Act; and (9) differing on matters not of law, the Principal Judge shall have the casting voice.

10. Act not to affect cases pending in any Court when the new Small Cause Court is constituted.

An Act to Amend Act XLII. of 1860.

Repealed by Act XI., 1865, s. 2.

GENERAL POLICE.—PROCEDURE.

Act No. XIII. of 1861.

[*Received the assent of the G. G. on the 24th April*, 1861.

Recites expediency of passing a temporary Act for guidance of Police under Act V., 1861, &c.

1. Enjoins on Police to whom warrant is directed to execute it forthwith.

2. Empowers Police Officer to whom warrant is directed to endorse it to another.

3, 4. Warrant ordinarily shall be executed within jurisdiction of the Magistrate who issued it, unless otherwise specially provided, or unless the party named in it escape, or go out of, or be in another jurisdiction; in which case (4) the Officer may follow him, and if not more than 20 miles off, may carry him to the Magistrate who issued the warrant.

5. Officers executing a warrant shall notify its substance and show the warrant.

6. To constitute an arrest, the party must be touched, unless he submits to the custody by word or action.

7. In case of resistance all necessary force may be used to affect the arrest.

8. Obliges every person on demand to assist the Police in preventing breaches of the peace, &c., under penalty of 50 Rs., or imprisonment not exceeding 3 months, or both.

9. Obliges persons in charge of house, &c., to allow Police to enter with search warrant, if they have reason to believe party to be arrested is there.

10. Entitles Police to break open outer or inner doors or windows to execute warrant after demand of admittance.

11. Entitles Police to take precaution to prevent escape of persons concealed in zenanah, and after demand of admittance and notification of object, to break open zenanah, giving the woman notice to withdraw.

12, 13. Person arrested not to be subject to more restraint than is necessary; and (13) shall, without unnecessary delay, be taken before Magistrate.

14. Police not to offer any inducement to person in custody to make any disclosure, nor to deter him by any caution.

15—18. Summons directed to Police shall be served forthwith; (16) by any officer endorsed upon it; and (17) personally, or if party cannot be found, on male member of family resident with him; or (18) if no male member, by fixing copy on house.

19—22. Enjoins on Police to whom search warrant is directed to execute it forthwith; and (20) Officer to whom it is directed may under circumstances endorse it over to another Officer; and (21) if it is to be executed in another jurisdiction, the Magistrate of that jurisdiction should endorse it; unless (22) the delay would be likely to defeat the object, in which case it may be executed without, and if the object of search is found, it shall be taken before the proper Magistrate of the jurisdiction, unless good cause to the contrary exists.

23—25. Enjoins on persons in charge of house, &c., on demand to allow Officer having the warrant to enter; and (24) in case of non-admittance after demand he may break open outer or inner doors or windows; and (25), after notice to woman within to withdraw, may enter zenanah.

26. Search to be made in presence of two respectable inhabitants of the place, who shall not be afterwards obliged to attend as witnesses unless specially summoned, and occupant of house entitled to be present at search.

27. Personal search of female shall be conducted with strict regard to the habits, &c., of the country.

28. Police Officer may arrest without warrant, (1) for any of the offences Scheduled, committed in his view; (2) any person complained of or under probable suspicion of such offence; (3) any person against whom a hue and cry is raised for any such offence; (4) any proclaimed offender; (5) any person found with stolen property; (6) any person obstructing Policeman in execution of his duty.

29. Police Officer in charge of Station may arrest without warrant, &c., any lurker about the station without subsistence, &c., reputed robber, house-breaker, receiver, or person of notorious bad livelihood.

30—32. Obliges every Police Officer to interfere to prevent any of the Scheduled offences; and (31) to communicate to his superior information which he has received of design to commit such offence; and (32) knowing of such design may arrest without warrant, if commission cannot otherwise be prevented.

33. Police Officer may of his own authority interpose to prevent injury attempted to public building, work of art, road, bridge, tank, or water channel.

34, 35. Enjoins on person residing in, or in charge of house, to allow Police Officers on demand to search under warrant against any person within; and (35) if he cannot obtain ingress, he may take precaution to prevent escape, and under circumstances may enter without warrant.

36. Person known or suspected to have committed offence, refusing to give his name, &c., or giving false one, &c., may be detained by Police to ascertain true name, &c.

37. Enjoins on Police Officer arresting without warrant to send party before Magistrate or Officer in charge of Police Station.

38, 39. Person lawfully arrested, and escaping, &c., may be re-taken on first pursuit, &c.; and (39) for purpose of re-capture same measures may be taken as for original taking.

40. Empowers Officer in charge of Police Station to enter shop, &c., for purpose of inspecting or searching for weights, measures, &c., if false ones are suspected of being used, and may seize false ones, &c.

41. The seizure of property stolen, or alleged so to be, or seized under circumstances of suspicion, shall be reported to Magistrate, &c.

42, 43. Prohibits Police, without express order, &c., from taking cognizance of other than Scheduled offences; but Magistrate may direct inquiry to be made into any offence; but (43) the prohibition not to apply to powers of Police under any special law, &c.

44, 45. Upon complaint to Station Officer of any Scheduled offence, he shall report same to Magistrate, and proceed or depute another to proceed to spot to enquire; unless (45) the case be of not a serious character, in which case he need not make local enquiry, &c.

46. Station Officer may abstain from all proceeding on a complaint, if he deem grounds insufficient, &c.

47. Every complaint to Station Officer to be reduced into writing, &c., and entered in Office diary.

48. Station Officer requiring Subordinate to make arrest without warrant, shall give his order in writing.

49. Police Officer may pursue party for arrest out of his own limits, &c.

50, 51. Empowers Station Officer to search for any thing as evidentiary, or if unable himself may order subordinate of his own, or (51) subordinate of another to make search, in writing, and search shall be made under rules relating to searches under warrant.

52, 53. Station Officer may summon attendance before himself of any person, &c.; and (53) may examine orally any person, supposed to be acquainted with the facts.

54—57. Prohibits Police Officer offering any inducement to any accused person to make disclosure; and (55) prohibits his recording any confession, but he may reduce it to writing; and (56) no confession or admission of guilt made to Police shall be used as evidence; and (57) no confession, &c., of a person in custody shall be used unless made in the immediate presence of a Magistrate.

58. In case of fact discovered in consequence of information from accused person, the particular information referred to may be used.

59. Station Officer may bind over prosecutor, &c., to appear before Magistrate, and shall forward accused, if offence be not bailable, to Magistrate. Subordinate Officer, having made inquiry, is to report it to superior, &c.

60, 61. No Police Officer without special order shall detain accused person more than reasonable period, and in no case more than 24 hours, though the enquiry be not completed, &c.; and (61) if the evidence be not sufficient to justify his being forwarded, Police Officer shall release the accused on bail on his own recognizance.

62, 63. Police Officer making official enquiry shall enter proceedings day by day, &c., forward diary day by day to Superintendent, who shall notify to Magistrate whatever is important: Magistrate may call for diary; but diary not to be legal evidence; and when an enquiry is completed, (63) a report in form to be prescribed, shall be forwarded to Magistrate, &c.

64, 65. For offences not bailable, accused shall not be admitted to bail, in case of probability of guilt; but for other offences he shall be bailed, if sufficient bail be tendered; and (65) the bail taken shall bind themselves to produce the accused before the Magistrate.

66. Police Officer shall take recognizance from necessary witnesses to appear before the Magistrate on day named, &c.

67. Prohibits Police Officer from subjecting prosecutor or witnesses to restraint, &c., or to require other than their own recognizances; but if they refuse to execute, they may be sent in custody to Magistrate, &c.

68. Station Officer shall report to Magistrate all persons apprehended in their limits, &c.

69, 70. Station Officer to enquire in presence of neighbours into apparent cause of unnatural or sudden death, and report particulars to the Magistrate; and in case of doubt forward the body to the Civil Surgeon; and (70) if Station Officer absent, &c., the Officer next in rank above a peon, &c., may make the enquiry.

71. Extends the provisions relating to warrants and summonses to all warrants and summonses.

72. This Act to apply only to enrolled Police, and to continue in force only till 1st January, 1862.

73. Interprets words number, gender, "Magistrate of the District," "Magistrate."

Schedule.

An Act to regulate temporarily the procedure of the Police enrolled under Act V., of 1861 (for the regulation of Police).

Of temporary operation, and now expired.

ROHILCUND.—TERRITORIAL.

ACT NO. XIV. OF 1861.

[*Received the assent of the G. G. on the 27th of May*, 1861.

Recites expediency of making certain parts of Rohilcund Non-Regulation.

1. Removes the tracts specified in Schedule, and parts of Juspoor and Kashcepoor to be defined, &c., from the Civil and Criminal Courts and Offices of Revenue constituted under Bengal Regulations, &c., and henceforward Acts of Legislative Council not to extend to such tracts unless specially named.

2, 3. Vests Civil, Criminal, and Revenue jurisdiction in Officers to be

appointed by Government for Courts of first instance and appeal, subject to Government and its directions; also as to (3) appeals.

4. Lieutenant-Governor may, under this Act, direct Court to refer criminal sentences for confirmation to Sudder, and no sentence of death shall be executed without such confirmation, and Sudder may decide without a Futwa, but shall not convict party acquitted, nor enhance sentence.

5. Empowers Lieutenant-Governor to direct in what gaols and to what places convicts shall be transported or imprisoned.

6. Questions of boundary of jurisdiction under this Act to be decided by him.

7. Act to take effect from date fixed by Lieutenant-Governor.

Schedule.

An Act to remove certain tracts of Country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.

Preamble.

Whereas it is expedient to remove certain tracts of country in the Rohilcund Division from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that Division, under the General Regulations and Acts of the Government, it is enacted as follows:

Certain tracts removed from the jurisdiction and procedure of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act, and such parts of the Pergunnahs Juspoor and Kasheepoor in the District of Mooradabad as shall be declared and defined by the Lieutenant-Governor of the North-Western Provinces, by an order to be published in the manner prescribed by Section VII. of this Act on or before the date fixed by the said Lieutenant-Governor under the said Section VII. for this Act to take effect, are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tracts, unless the same be specially named therein; provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. The administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public Revenue and of all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance, or of reference and appeal, appoint, and the Officer or Officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the Lieutenant-Governor of the North-Western Provinces, and be guided by such instructions as the Lieutenant-Governor of the North-Western Provinces may from time to time issue.

Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant-Governor of the North-Western Provinces.

III. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces to direct that an appeal may be heard in any of the matters described in the last preceding Section by the Commissioner of the Rohilcund Division or the Civil and Sessions Judge of any district in the said division, or by the Sudder Dewanny and Nizamut Adawlut, or by the Board of Revenue, and to declare in what cases the order, made by any Officer or Court empowered by the Lieutenant-Governor to dispose of any of the matters aforesaid, shall be final.

Appeals.

IV. It shall be lawful to the Lieutenant-Governor of the North-Western Provinces to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent, under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwa of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Reference to the Sudder Court.

V. Any person liable to be imprisoned in any Civil or

Place of imprisonment or transportation.

Criminal Gaol, or to be transported beyond sea, under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Gaol, or transported to any place which the Lieutenant-Governor of the North-Western Provinces may direct.

Questions of disputed boundary to be determined by Commissioner of Rohilcund.

VI. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of Rohilcund to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final

Commencement of Act.

VII. This Act shall take effect from such date as shall be fiexd by the Lieutenant-Governor of the North-Western Provinces, and notification thereof shall be published in the Office of the Commissioner of Revenue and the Courts of the Civil and Sessions Judges and of the Magistrates of the Rohilcund Division, and in such other manner as the Lieutenant-Governor may direct.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

The Pergunnah of Bazpoor in the District of Mooradabad.

The Pergunnahs of Roodurpoor and Gaddurpoor in the District of Bareilly.

The Pergunnahs of Kilpooree, Nanuk-Muttha, and Bilhéree in the District of Peeleebheet.

CONCAN.—PORT-DUES.

Act No. XV., of 1861.

[*Received the assent of the G. G. on the* 28*th May*, 1861.

Recites necessity of fixing Port-dues under Act XXII., 1855, for Concan.

1. Divides Ports of Concan into the Northern, Central, and Southern, as in Schednies A, B, C.

2—4. Port-dues not to exceed 2 annas per ton on tonnage exceeding 10 tons, except fishing boats; and (3) half rates for vessels entering Ports from stress of weather, &c., and not discharging, &c., cargo; and (4) wholly exempts vessels re-entering Port of departure under such circumstances.

5. No vessel to be chargeable oftener than once in 30 days.

6, 7. The 3 divisions of Ports to be regarded as one port, but receipts of each to be paid to separate fund, &c.; and the funds to be applied under Section 44, Act XXII., 1855.

8, 9. Act to take effect from 1st July, 1861; before which date (9) Local Government is enjoined to publish a scale of rate.

10. Act to be read as part of Act XXII., 1855.

Schedule A, B, C.

An Act for the levy of Port-dues in the Ports of the Concan.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in accordance with the provisions of Act XXII. of 1855 (*relating to Ports and Port-dues*) in the Ports named in the Schedules to this Act, being Ports in the Concan Districts of the Presidency of Bombay, it is enacted as follows:

Division of Ports into groups.

I. The Ports in the Concan shall be divided for the purposes of this Act into three groups, namely, Northern, Central, and Southern. The Northern group shall comprise the Ports named in Schedule A; the Central group shall comprise the Ports named in Schedule B; and the Southern group shall comprise the Ports named in Schedule C.

Port-dues on sea-going vessels of ten tons and upwards entering Port.

II. Port-dues, at a rate not exceeding the rate of two annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except Fishing Boats) which shall enter any of the said Ports.

Rate of Port-due on vessels compelled by stress of weather to enter Port.

III. When any vessel enters any of the said Ports, being driven in by stress of weather, or in consequence of having sustained any damage, or for any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to put back.

IV. Provided that, when any vessel having left any of the said Ports is compelled to re-enter such Port, or to enter any other of the said Ports, named in the same Schedule, by stress of weather, or

in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay Port-due at same Port oftener than once a month.

V. No vessel shall be required to pay at the same Port any Port-due chargeable under this Act oftener than once in the same calendar month, or oftener than once in thirty days.

Ports comprised in Schedules A, B, and C, respectively, to be regarded as one Port, and the sums received at such Ports on account of Port-dues to form separate Funds.

VI. For the purposes of Section XLIV. of the said Act XXII. of 1855, the several Ports comprised in each of the Schedules A, B, and C, to this Act, shall be regarded respectively as one Port, and the sums received on account of Port-dues at the several Ports named in each of the said Schedules shall form separate Funds, which shall be termed respectively the Northern Concan Ports Fund, the Central Concan Ports Fund, and the Southern Concan Ports Fund.

Application of Port-dues.

VII. All sums received on account of Port-dues at any of the Ports comprised in each of the groups specified above, shall be available for the payment of all such expenses as are described in Section XLIV. of the said Act XXII. of 1855, incurred on account of any of the Ports in the same group.

Commencement of Act.

VIII. This Act shall commence and have effect from and after the First day of July, 1861.

Rates of Port-dues to be published.

IX. The Local Government shall, on or before the said 1st day of July, 1861, pursuant to Section XLII. of the said Act XXII. of 1855, declare, by Notification to be published in the "Bombay Government Gazette," the rate at which Port-dues shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due shall be levied at any of the said Ports, except under the authority of the said Act XXII. of 1855, and of this Act.

No other Port-due to be levied.

Act to be read as part of Act XXII. of 1855.

X. This Act shall be read with and taken as a part of Act XXII. of 1855.

SCHEDULE A.

NORTHERN GROUP.

1. Calaee.
2. Murrolee.
3. Gomergaum.
4. Danoo River.
5. Tarapoor.
6. Satpattee.
7. Mahim.
8. Kelvey.
9. Dantewra River.
10. Bassein River.

SCHEDULE B.

CENTRAL GROUP.

1. Ootun.
2. Munnoree.
3. Versoah.
4. Bandorah.
5. Tanna River.
6. Caranja River.
7. Panwell River.
8. Thull.
9. Alibag.
10. Mandvay.
11. Revdunda.
12. Thull Kharee.
13. Bankote River.

SCHEDULE C.

SOUTHERN GROUP.

1. Kelsee.
2. Hurnee.
3. Anjunwell River.
4. Boria.
5. Jyghur River.
6. Rutnagherry.
7. Poorunghur.

SCHEDULE C.—*Continued.*

8. Eshwuntghur River.
9. Viziadroog River.
10. Dewghur.
11. Achray.
12. Malwan.
13. Newtee.
14. Vingorla.
15. Rairee.

STAGE CARRIAGES.

ACT No. XVI. OF 1861.

[*Received the assent of the G. G. on the 7th July*, 1861.

Recites expediency of regulating and licensing Carriages.

1, 2. Defines State Carriages to be, every Carriage drawn by one or more horses ordinarily used for carriage for hire of passengers, unless used for journeys of less than 20 miles; and (2) no Stage Carriage to be used unless licensed by Magistrate, &c.

3, 5, 6. Magistrate, &c., may refuse license for Carriage if he deems it unfit, &c.; and license shall set forth specified particulars and weight of luggage to be carried; which (5) shall be painted on the Carriage; or (6) penalty of 100 Rupees to be incurred.

4. License fee to be 5 Rupees, and license be in force one year.

5, 6. *Ante.*

7, 8. Penalty for letting unlicensed Carriage not to exceed 100 Rupees, and on second conviction 500 Rupees; for (8) infraction of conditions same penalty; and proprietor to be held constructively responsible as knowing of the offence.

9. Penalty for cruelty, over-driving, torturing, &c., horses, &c., or driving any horse unfit from age, &c., not to exceed 100 Rupees.

10, 11. Magistrate, &c., within whose local limits grounds occur, may cancel license; and (11) Police Officer may seize carriage with the horse, within 2 miles of Magistrate's residence, for not having particulars painted, &c., and take same to the Magistrate, who may fine and detain, and realize by sale, &c.

12. Penalty on driver endangering passenger through intoxication, &c., or other misconduct, not to exceed 100 Rupees.

13. Persons becoming owners of any Carriage in respect of which penalty has been incurred, to be liable for penalty except under Section 8, if the driver or owner primarily responsible be not known or not found; unless he can establish as an excuse that the proprietor did not know of, or did not profit by, the offence, and that he has endeavoured to find out the owner or driver primarily liable.

14—13. Magistrate may send summons by registered post to proprietor or his nearest agent; and (15) case to be adjudged by Magistrate or Chief Commissioner of Police in Presidency Town, whose decision shall be final; and (16) all penalties may be recovered by distress and sale; and (17) if not forthwith paid offender may be imprisoned unless he give bail until return of distress warrant; and (18) if the penalty is not levied under distress warrant, the offender may be imprisoned, unless a British subject, for a term graduated to amount of penalty.

19. European British subject to be liable to same execution as under decree of Civil Courts.

20. Before Magistrate, offence needs not be proved to have been committed within his jurisdiction.

21. Interprets the words "Magistrate," "British India," "Horse," words "Number" and "Gender."

22. Act to commence from 1st September, 1861, except in Madras and Straits' Settlements, and then from date fixed by Local Government.

An Act for licensing and regulating Stage Carriages.

Preamble.

Whereas it is expedient to license and to regulate Stage Carriages in British India, it is enacted as follows:

Definition of State Carriage.

I. Every Carriage drawn by one or more horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall, without regard to the form or construction of such Carriage, be deemed to be a Stage Carriage within the meaning of this Act. Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles.

Grant of licenses.

II. No carriage shall be used as a Stage Carriage unless licensed by a Magistrate or by the Chief Commissioner of Police of a Presidency Town.

Refusal of license.

III. The Magistrate or Chief Commissioner of Police to whom the application for a license of a Stage Carriage is made may refuse to license the same, if he shall be of opinion that such Stage Carriage is unserviceable or is unsafe or unfit for public accommodation or use.

Particulars of license.

If a Magistrate or Chief Commissioner of Police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the Stage Carriage, the place at which his head office is held, the largest number of passengers and the

greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charge for and duration of license.

IV. For every such license there shall be paid by the proprietor of the Stage Carriage the sum of five Rupees, and such license shall be in force for one year from the date thereof. When a licensed Stage Carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Number of license, &c., to be painted on conspicuous part of carriage.

V. On any Stage Carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such Stage Carriage.

Penalty for letting carriage for hire without having the number, &c., painted on it.

VI. The proprietor of any licensed Stage Carriage who shall let such State Carriage for hire without the particulars specified in Section III., being painted on such carriage in the manner directed in the last preceding Section, shall be liable to a fine not exceeding one hundred Rupees.

Penalty for letting for hire unlicensed carriage.

VII. Whoever lets for hire any Stage Carriage without the same being licensed as provided by this Act, shall be liable on a first conviction to a fine not exceeding one hundred Rupees, and on any subsequent conviction to a fine which may extend to five hundred Rupees.

Penalty for carriage drawn by less number of animals or carrying a greater number of passengers, &c., than is provided by the license.

VIII. Any proprietor, or agent of a proprietor, or any driver of a licensed Stage Carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage to be carried by such Stage Carriage than shall be proved by the license, shall be liable on a first conviction to a fine not exceeding one hundred Rupees, and on any subsequent conviction to a fine which may extend to five hundred Rupees. In every case where such Stage Carriage

shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

Penalty for ill-treating animals.

IX. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any horse employed in drawing or harnessed to any Stage Carriage, or who shall harness to or drive in any Stage Carriage, any horse which from sickness, age, wounds, or other cause is unfit to be driven in such Stage Carriage, shall for every such offence be liable to a fine not exceeding one hundred Rupees.

Revocation of license.

X. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any Stage Carriage shall ply, or who has granted the license of any Stage Carriage may cancel the license of such Stage Carriage if it shall appear to him that such Stage Carriage or any horse or any harness used with such Carriage is unserviceable or unsafe, or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of Section V.

XI. In any Station or place in which a Magistrate shall reside and be, any Police Officer may, in any place within two miles of the Office of such Magistrate, seize any Stage Carriage with the horse harnessed thereto, if the full particulars of the license of such Stage Carriage be not distinctly painted on such Stage Carriage in the manner provided in Section V. of this Act. Such Carriage with the horse harnessed thereto shall be taken without delay by such Police Officer before such Magistrate who shall forthwith proceed to hear and determine the complaint of such Police Officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such Stage Carriage and horse shall be immediately released; and if such fine be not paid, such Stage Carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner

paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus if any, when claimed, shall be paid to the proprietor of such carriage and horse; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State. If the proceeds of the sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

Penalty for misconduct on part of drivers.

XII. If any driver of any Stage Carriage, or any other person having the care thereof, shall, through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of any such Stage Carriage or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred Rupees.

Penalty in certain cases recoverable from proprietor.

XIII. Whenever the driver of any Stage Carriage or the owner of any horse employed in drawing any Stage Carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in Section VIII., and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such Carriage shall be liable to every such penalty, as if he had been the driver of such Carriage, or owner of such horse at the time when such offence was committed. Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner, without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either, directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavour to find out such driver or owner, and has done all that in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

Proviso.

Issue of Summons.

XIV. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a Stage Carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter post which shall be deemed to be good service thereof. The letter shall be registered at the Post Office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case. The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

Adjudication of penalties.

XV. All penalties incurred under this Act shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final.

Recovery of penalties, &c.

XVI. All penalties imposed under this Act, or any balance of any fine, costs or charges, as mentioned in Section XI. of this Act, may in case of non-payment or non-recovery thereof, be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

Offender may be apprehended and detained in custody until return of warrant of distress.

XVII. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender if distress not sufficient.

XVIII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand,

commit the offender, provided he is not a European British subject, to prison, there to be imprisoned according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Recovery of penalty and costs from European British subjects.

XIX. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of the decrees of the Civil Court.

Jurisdiction.

XX. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other Officer.

Interpretation. "Magistrate."

XXI. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate.

"British India."

The term "British India" in this Act shall denote the Territories that are or shall be vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

"Horse."

The term "horse" shall include ponies and mules.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include the feminine.

Commencement of Act.

XXII. Except in the Presidency of Fort St. George and the Settlement of Prince of Wales' Island, Singapore, and Malacca, this Act shall have effect on and after the 1st day of September, 1861. In the said

Presidency and Settlement respectively the Act shall have effect from the day when it shall be extended thereto by the Local Government by an order published in the "Government Gazette."

N. W. PROVINCES.—CUSTOMS FRONTIER SUGAR EXPORT DUTIES.

Act No. XVII. of 1861.

[*Received the assent of the G. G. on the 7th July*, 1861.

Recites expediency of amending the Frontier Export Duties on Sugar and Saccharine Produce.

1, 2. From 9th March, 1861, on export from North-Western Provinces, of Misree, Kund, Cheenee, and all clayed and refined Sugar, 1 Rupee per maund; on Goor, Rāb, Sheerah, and all unclayed and unrefined, 6 as. per maund; to be collected and paid, (2) as if imposed by Act XIV., 1843.

3. Indemnifies Customs Officers for all collections in anticipation of this Act, after 9th March, 1861.

An Act to amend Act XIV. of 1843 (for regulating the Customs Duties in the North-Western Provinces).

Preamble.

Whereas it is expedient to amend the law relating to Customs Duties, so far as relates to the Export Duty on Sugar or other saccharine produce in the North-Western Provinces, it is enacted as follows:

Rate of Duty to be charged on the exportation of Sugar from 9th March, 1861.

I. From and after the Ninth day of March, 1861, in lieu of the Duty on Sugar and other saccharine produce, exported from the North-Western Provinces, authorized to be charged under Act XIV. of 1843 (*for regulating the Customs Duties in the North-Western Provinces*), there shall be collected and paid the following Duty, that is to say:—

On the export of Misree, Kund, Cheenee, and all clayed and refined Sugar, one rupee per Maund.

On the export of Goor, Rāb, Sheerah, and all unclayed and unrefined saccharine produce, six annas per Maund.

New Duty to be collected under Act XIV. of 1843.

II. The said new Duty shall be collected and paid under the provisions of the said Act XIV. of 1843, in the same manner as if the said new Duty had been imposed thereby.

3, 4. Directs the establishment of a Department, to be called the Department of Issue, for the issue of Government Promissory Notes, payable to bearer on demand, for sums not less than 10 Rupees; for which (4) some person (who may be the Master of the Mint) may be appointed to be Head Commissioner at Calcutta, and the like at Madras and Bombay; and the Governor General in Council may make Rules for coming to arrangements with Banks for the issue of the said Notes, &c.

5, 6. Governor General in Council may establish "Circles of Issue," (3) to include Calcutta, Madras, and Bombay respectively, as places for the issue of the Notes, and may alter same; for each of which (6), except in the Presidency Circle, a Deputy Commissioner of Issue shall be appointed, and Agencies may be established.

7. Commissioners at Madras and Bombay, and Deputy Commissioners and Agents in Bengal, to be subordinate to Head Commissioner; and in Madras and Bombay Deputy Commissioners and Agents to be subordinate to Commissioners.

8. The Head Commissioner of Issue shall provide the Notes for currency, and supply the Commissioners at Madras and Bombay; such Notes to bear on them the name of the place whence issued, and be payable only there and at the Presidency Town.

9. Directs Notes to be issued in exchange for (1) current silver coin, or (2) standard silver bullion at rate of 979 Rupees per 1,000 tolas of silver, fit for coinage, of which an assay may be required at expense of person tendering; but issue for bullion may be refused at places where there is no Mint; or (3) in exchange for other Government Notes: and the Governor General in Council may by an order direct that, to a specified extent not exceeding ¼th of Notes, the issue may be in exchange for gold coin or gold bullion, at rates of value to be fixed by the order.

10. The bullion and coin received in exchange for Notes shall be retained, except so much, not exceeding 4 crores, as the Secretary of State for India shall fix, to be invested in Government Securities, and the whole issue shall be deemed to be on the security of the said Securities, the metallic reserve, &c., and of the general credit of Government.

11. Directs in whose name the Government Securities purchased under the Act shall stand.

12, 13. Head Commissioner to frame Rules for keeping the Accounts of the Department, and for auditing, &c.; abstracts of which accounts (13) showing the amount of Notes in circulation, &c., shall be published monthly, &c.

14. Authorises the Head Commissioner at Calcutta and Commissioners at Madras and Bombay to sell and transfer Securities under orders of the Governor General in Council.

15. The interest accruing under the Securities to be carried to an account entitled "Profits of Note circulation," &c.

16. Within the "Circles of issue," the Notes of each Circle to be a legal tender in their own Circle, except in payment made by Government.

17. The name authorised to be signed to Notes may be printed, &c.

18. Notes issued under the Act to be deemed the Notes of the Government of India.

19. Imposes a penalty on persons issuing Bill, Note, &c., payable to bearer on demand, and on borrowing on such Note, to the amount of the Note, recoverable on the prosecution of Head Commissioner, &c., and penalty if not paid may be levied by distress and sale, &c.

20. Interprets the words "British India."

An Act to provide for a Government Paper Currency.

Preamble.

Whereas it is expedient to provide for the issue by the Government of India of Promissory Notes payable to bearer on demand, and to regulate the mode of issuing and securing payment of the same; and whereas due notice has been given by the Governor General of India in Council to the Banks of Bengal, Bombay, and Madras respectively, as required by Acts VI. of 1839, III. of 1840, and IX. of 1843, that the said Banks are to be modified by the power of the said Banks to issue Promissory Notes payable on demand ceasing from and after the day hereinafter provided, it is enacted as follows:

Laws repealed.

I. Section XXXI. of the said Act VI. of 1839, Section XXXI. of the said Act III. of 1840, and Section XXXIII. of the said Act IX. of 1843, so far as the said Sections authorise the Banks of Bengal, Bombay, and Madras respectively to issue promissory notes payable on demand, are repealed from and after the First day of March, 1862.

No Body Corporate or person to issue Notes, &c., payable to bearer on demand.

II. After the passing of this Act, no Body Corporate, person, or persons whatsoever, in British India, (except the Banks of Bengal, Madras, and Bombay, up to the said First day of March 1862, and except as hereinafter provided,) shall draw, accept, make, or issue any Bill of Exchange or Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes payable to bearer on demand of any such Body Corporate or of any such person or persons.

Exception in favor of Cheques.

Provided that Cheques or Drafts payable to bearer on demand, or otherwise, may be drawn on Bankers, Shroffs, or Agents by the customers or constituents of

such Bankers, Shroffs, or Agents, in respect of deposits of money in the hands of such Bankers, Shroffs or Agents, and held by them at the credit and disposal of the persons drawing such Cheques or Drafts.

Department of Issue to be established.

III. There shall be established by the Governor General of India in Council a Department of the Public Service, to be called the Department of Issue, either in connection with the Mints or otherwise, and from and after the passing of this Act there may be issued from the said Department, as hereinafter provided, Promissory Notes of the Government of India payable to bearer on demand, for such sums, not being less than ten Rupees, as the Governor General of India in Council shall from time to time direct.

Head Commissioner and Commissioners to be appointed.

IV. The Governor General in Council, after the passing of this Act, shall appoint some person, who may be the Master of the Mint at Calcutta, to be called the Head Commissioner of the Department of Issue, and two other persons, who may be the Master of the Mint at Madras and the Master of the Mint at Bombay, who shall be called respectively the Commissioners of the Department of Issue at Madras and Bombay, and it shall be lawful for the Governor General of India in Council from time to time, by Rules to be published in the Gazettes of Calcutta, Madras, and Bombay, to make such arrangements through any Officers of Government or with any persons, Banks, or Bodies Corporate, either at Calcutta, Madras, and Bombay, or elsewhere, as may be required to regulate and facilitate the issue and payment, under the provisions of this Act, of Promissory Notes of the Government of India, of such denominations as shall be prescribed under the last foregoing Section, not being for any less sum than ten Rupees.

Power to Governor General in Council to establish Circles of Issue.

V. It shall be lawful for the Governor General of India in Council from time to time, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, to establish in British India, Districts, to be called "Circles of Issue," three of which Circles shall include the Towns of Calcutta, Madras, and Bombay, respectively, and in each Circle to appoint some one city or town to be the place of Issue of Notes, as hereinafter provided. It

shall be lawful for the Governor General of India in Council, by an order to be published as aforesaid, from time to time to alter or extend the limits of the said Circles or any of them. Promissory Notes of the Government of India, may be issued in the several Circles of Issue as hereinafter provided.

Deputy Commissioners to be appointed.

VI. For each Circle of Issue other than those which include the Towns of Calcutta, Madras, and Bombay, there shall be appointed by the Governor General in Council, an Officer of the Government or other person to be called the Deputy Commissioner of Issue. In any Circle of Issue there may be also established an Agency or Agencies of Issue in connection with a Bank or otherwise.

Commissioners to be subordinate to Head Commissioner, Deputy Commissioner to Commissioner.

VII. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner; the Deputy Commissioners and Agents in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and the Deputy Commissioners and Agents in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay respectively.

Notes to be prepared by Head Commissioner and distributed by him.

VIII. The Head Commissioner of Issue for the time being shall provide, on paper to be specially manufactured for the purpose, Promissory Notes of the Government of India payable to bearer on demand, of the denominations which shall be from time to time prescribed under Section III. of this Act, and shall supply or cause to be supplied to the Commissioners at Madras and Bombay, and to the several Deputy Commissioners and Agents, such Notes as they shall require for the purposes of this Act, and all Notes shall bear upon them the name of the city or town from which they are severally issued, and shall be payable only at the Office or Offices or Agencies of Issue of such city or town, and at the Presidency Town of the Presidency within which such city or town is situated. [Amended by Act XXX., 1867.]

Where payable.

When such Notes may be issued.

IX. The Head Commissioner, the Commissioners, and the Deputy Commissioners and Agents shall in their respective "Circles of Issue," on the

demand of any person, issue from such Office or Offices or Agencies of Issue as shall be established in the appointed city or town in their respective Circle, Promissory Notes of such denomination as shall be prescribed under Section III., not being for any less sum than ten Rupees, on the terms following:—

First, in exchange for the amount thereof in current silver coin of the Government of India; or,

Secondly, in exchange for the amount thereof in standard silver bullion or foreign silver coin, computed according to such standard, at the rate of 979 Rupees per 1,000 tolas of standard silver fit for Coinage.

Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same, and provided also that in all places where there is no Mint of the Government of India, it shall be optional for any such Head Commissioner, Commissioner, Deputy Commissioners, and Agents, to issue notes in exchange for silver or foreign coin under this Section; or,

Proviso.

Thirdly, in exchange for other Notes of the Government of India payable to bearer on demand of other amounts issued within the same Circle.

Provided also, that it shall be lawful for the Governor General in Council from time to time to direct, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, that Notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices or Agencies of Issue as may be named in the order, in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion computed at such rates and according to such rules and conditions as shall be fixed by such order, and which rates, rules, and conditions shall not be altered without six months' previous notice. Whenever such order shall be issued, the Head Commissioner, Commissioners, Deputy Commissioners, and Agents, at the Offices or Agencies specified in the order shall be bound to issue Notes on demand in conformity with such order. [Addition and amendment made to this Section by Act I., 1866, s. 1.]

X. The whole amount of the bullion and coin so received for Notes shall be retained and secured as a reserve to pay such Notes, with the exception of such an amount, not exceeding four crores of Rupees, as the Governor General in Council, with the consent of the Secretary of State for India, shall from time to time fix. The amount so fixed shall be published in the Gazettes of Calcutta, Madras, and Bombay, and shall be invested in Government Securities, and the said coin, bullion, and Securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said Notes; and the said Notes shall be deemed to have been issued on the security of the coin, bullion, and securities so appropriated and set apart, as well as on the general credit of the Government. Provided that any gold coin or bullion which may be received under this Act may be sold or exchanged for silver coin or bullion to be so appropriated and set apart instead of the gold coin or bullion.

The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount not exceeding 4 crores of Rupees to be fixed as the minimum limit of circulation.

XI. The Government Securities purchased under this Act in the Presidency of Fort William in Bengal shall stand in the name of the Head Commissioner and the Master of the Mint at Calcutta; the Government Securities purchased under this Act in the Presidency of Fort St. George shall stand in the name of the Commissioner at Madras, and the Master of the Mint at Madras; and the Government Securities purchased under this Act in the Presidency of Bombay shall stand in the name of the Commissioner at Bombay and the Master of the Mint at Bombay. Provided that if the Head Commissioner, or Commissioner in any case, be the Master of the Mint, the Governor General in Council shall appoint another Trustee or Trustees in addition to the Master of the Mint.

In what names the Government Securities to stand.

XII. The Head Commissioner from time to time shall frame Rules, to be approved by the Governor General of India in Council, for keeping the accounts of the said Department of Issue, and for the auditing of such accounts, and for otherwise regulating the business of the Department; provided that such Rules shall be in no wise inconsistent with the provisions of this Act.

Rules to be framed for keeping and auditing the Accounts.

Abstract of accounts to be published.

XIII. An abstract of the accounts of the Department, showing the whole amount of Notes in circulation, the amount of coin and bullion reserved, distinguishing gold from silver, and the amount of the Government Securities held by the said Department, shall be made up monthly in Calcutta, and published as soon as may be in the Gazettes of Calcutta, Madras, and Bombay.

Securities to be disposed of when necessary.

XIV. It shall be lawful for the Head Commissioner in respect of the Presidency of Fort William in Bengal, and for the Commissioners at Madras and Bombay in respect of the Presidencies of Madras and Bombay respectively, at any time when they shall be ordered so to do by the Governor General of India in Council, to sell and dispose of any portion of the above-mentioned limited amount of Government Securities standing in their names respectively, and in the names of the Masters of the Mint or Trustees as aforesaid; and for the purpose of effecting such sales, the said Masters of the Mint or Trustees respectively shall, on a request in writing from the said Head Commissioner or Commissioners in their respective Presidencies, at all times sign and endorse such Government Securities as shall stand in their names respectively, and it shall be lawful for the said Head Commissioner or Commissioners, if directed by the Governor General of India in Council, to purchase Government Securities to replace their sales.

Interest of Securities to be paid to the credit of Government.

XV. The interest accruing due on the Government Securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor General of India in Council; and the amount of such interest shall, from time to time, as it becomes due, be paid by the Accountants General in the several Presidencies of India, into the revenues of the Government of India, under the head of "Profits of Notes Circulation," and an account showing the amount of profits of the Note circulation and of the charges and expenses incidental thereto, shall be made up and published annually in the Gazettes of Calcutta, Madras, and Bombay.

Notes where legal tender.

XVI. Within any of the "Circles of Issue," as hereinbefore provided, a tender of a Note or Notes issued under this Act from any Office or Agency

of Issue of such "Circle of Issue," shall be a legal tender to the amount expressed in such Note or Notes, and shall be taken to be valid as a tender to such amount in payment of any revenue or other claim to the amount of ten Rupees and upwards due to the Government of India, and in payment of any sum of ten Rupees and upwards due by the Government of India, or by any Body Corporate or by any person or persons in British India, on all occasions whatsoever on which any tender of money can be legally made. Provided that no such Note or Notes shall be deemed to be a legal tender of payment by the Government of India at any Office or at the Issue Department of any Agency of Issue.

Name of Head Commissioner, &c., may be impressed with machinery.

XVII. The name of the Head Commissioner, of either of the Commissioners, of any Deputy-Commissioner, or of any other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign Notes issued under this Act, may be impressed or affixed by machinery provided for that purpose by the Government of India, and such printed names shall be taken to be good and valid signatures to all intents and purposes, as if such Notes had been subscribed in the proper handwriting of any one of the persons aforesaid whose signatures the said printing purports to represent.

Notes may be described as Promissory Notes.

XVIII. All Notes issued under this Act shall be deemed and taken to be Promissory Notes of the Government of India, and may and shall be described as Promissory Notes of the Government of India in all indictments, and in Criminal and Civil proceedings, any law or usage to the contrary notwithstanding.

Penalty for issuing such Notes contrary to provisions of this Act.

XIX. If any Body Corporate or person, after the passing of this Act, shall, contrary to the provisions of this Act, draw, accept, make, or issue any Bill of Exchange, Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes or engagements for the payment of money payable to bearer on demand of any such Body Corporate or person, such Body Corporate or person shall be liable to a penalty to the amount of every such Bill of Exchange, Promissory Note, or engagement for the payment of money, to be recovered on the

prosecution of the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the "Circle of Issue" in which such Bill of Exchange, Promissory Note, or engagement for the payment of money is issued, before any Police Magistrate or Magistrate within such "Circle of Issue," and in case of conviction, and default of payment of such penalty, the Police Magistrate or Magistrate who shall try the case shall issue his warrant to levy the amount thereof, together with the reasonable costs of the prosecution, by distress and sale of the goods and chattels of the Body Corporate or person so convicted.

Definition of "British India."

XX. The words "British India" in this Act shall denote the Territories that are or may be vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Amended by The Currency Act Amendment Act, 1866. And see Act XXX., 1867, which is to be read with and taken as part of the above Act.

BOMBAY.—MUNICIPAL GOVERNMENT.

ACT NO. XX. OF 1861.

[*Received the assent of the G. G. on the 24th July*, 1861.

Recites expediency of amending Act XXV., 1858.

1. Empowers the Governor in Council to remove any elected Municipal Commissioner on recommendation of Justices in Session. Justices to elect to the vacancy.

2, 3. Repeals so much of Section 10, Act XXV., 1858, as directs quarterly payment of rates, and empowers Governor in Council to direct payment to be quarterly or annual; and (3) makes Bricks and Tiles dutiable.

4. Commissioner of Customs may levy at subsequent period Town Duties on articles not assessed at time of importation on account of their being consumable in the town.

5, 6. Makes Bombay a warehousing Port for Timber within Act XXV., 1836. The Import Duty may be levied on timber warehouses, and be leviable under Act XXV., 1858; and (6) be remitted in case of re-export.

7. Act to take effect from 1st September, 1861, and be read as part of Act XXV., 1858.

An Act to amend Act XXV. of 1858 (for appointing Municipal Commissioners and for raising a Fund for Municipal purposes in the Town of Bombay).

Repealed by Act II., 1865, of the Bombay Council.

INCOME TAX RETURNS.

ACT No. XXI. OF 1861.

[*Received the assent of the G. G. on the 27th July*, 1861.

Recites expediency of limiting for the year, from 31st July, 1861, the Income Tax assessments.

1—6. Authorises the Governor General in Council to direct the non-issue of Notices for fresh Returns under Sections 37, 38, of Act XXXII., 1860, for the year 1861-62, and issue of general notice that the assessment of the past year will be renewed for another year, which general notice (2) shall fix a period of two months, after which the assessments will be made; and (3) the proper Officers shall accordingly make these at the old rates; and (4) except as is excepted, the re-assessed duties shall be payable as if assessed under fresh Returns; except (5) in case of any person claiming to be assessed under Act XXXII., 1860, within the time fixed by the general notice; and (6) as respects persons claiming to be newly assessed, the Assessor, &c., shall assess them according to the provisions of the said Act.

7, 8. Saves the authority to issue special notices under Section 38 of Act XXXII., 1860; and to persons whose former Return may have been fraudulent, or who have been assessed for less than a year, &c.; and (8) Act XXXII., 1860, to apply to all such special notices.

9. Transfer of immoveable property made after the assessment of the profits in respect thereof, not to change the liability to pay the tax for that year.

10. Act not to apply to the duties under Schedules 3 and 4 of Act XXXII., 1860.

Form of Notice.

An Act for limiting in certain cases for the year commencing from the 31st day of July, 1861, the amount of Assessment to the Duties chargeable under Act XXXII. of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices), and Act XXXIX. of 1860 (to amend Act XXXII. of 1860).

Expired and obsolete.

CATTLE TRESPASS.

ACT No. XXII. OF 1861.

[*Received the assent of the G. G. on the 20th August*, 1861.

Recites expediency of amending Cattle Trespass Act, III., 1857.

1, 2. Persons causing Cattle Trespass on land or crop with intent, &c., to cause wrongful loss, &c., liable to imprisonment by Magistrate not exceeding 3 months, and fine not exceeding 300 Rupees, or both; and (2) if loss or damage is caused to amount of 50 Rupees, liable to imprisonment for not exceeding 2 years, and fine not exceeding 200 Rupees; which fine (4) may be applied to indemnification of sufferer after 30 days, on decision confirmed on appeal.

3. Interprets Magistrate to mean any Officer competent to sentence to 6 months' imprisonment, and fine of 200 Rupees.

5. Sentences and orders under this Act appealable according to existing law of appeal.

6. The power of seizing Cattle, trespassing under Section 2, Act III., 1857, may be exercised by any person who has given cash advances on crop or cultivation.

An Act to amend Act III. of 1857 (relating to trespasses by Cattle).

Preamble.

Whereas it is expedient to amend Act III. of 1857 (relating to trespasses by Cattle), it is enacted as follows:

I. to V. Repealed by Act XVII., 1862.

Power of seizing Cattle.

VI. The power of seizing or causing to be seized any Cattle trespassing on, or doing damage to, any land or to any crop or produce thereon, conferred by Section II. of the said Act III. of 1857, may be exercised, subject to the provisions of the said Act, by any person who has given cash advances for the cultivation of the crop or produce on such land, or to whom such crop or produce shall have been sold or mortgaged.

CODE OF CIVIL PROCEDURE.

ACT No. XXIII. OF 1861.

[*Received the assent of the G. G. on the 28th August*, 1861.

Recites expediency of amending Act VIII., 1859, and to consolidate Amendment Acts.

I. Repeals Sections 23, 33, 193, 215, 274, 283, 332, 339, 358, 375, 381 of Act VIII., 1859; also Act IV., 1860; also Section 10 of Act XLII., 1860; Act XLIII., 1860.

2. All processes to be served at expense of party obtaining it, unless otherwise directed, &c., and cost of process to be paid into Court before issued.

3. Plaint filed in wrong Court to be returned to plaintiff for use in proper Court.

4. If of several defendants some reside out of the jurisdiction, but some within, the District Court (if the suit is pending in a subordinate Court), or the Sudder Court, may order, which Court shall try the suit.

5—7. Suits liable to be dismissed if summons not served in consequence of non-deposit of costs, unless the defendant shall have appeared; and (6) same rule to apply to appeals; but (7) plaintiff may institute fresh suit; or obtain fresh summons on first plaint under specified circumstances.

8. Person arrested in execution of a decree for money, and applying for his discharge under Act VIII., 1859, Section 273, shall be examined by Court, &c. as to his means and property, and plaintiff shall be called on to show cause why he does not proceed against the property, and defendant may be discharged; and Court may take security for appearance of defendant pending enquiry.

9. Empowers Court in its discretion to send for persons not named as witnesses to give evidence, and may examine them; costs to be costs in the suit.

10. Authorizes the Court in suits for money to allow interest from date of suit in addition to prior and subsequent interest.

11. All reserved questions of mesne profits or interest between date of suit and execution, and questions of intermediate payments in discharge, shall be summarily determined by the Court executing the decree, subject to appeal, which may be refused on the petition for it.

12. Appeals made admissible by this Act, but rejected as inadmissible before this Act, may be admitted under this Act on or before 26th November, 1861; application to be on stamped paper.

13. Courts not of Small Causes may, in suits for causes cognizable in Small Cause Courts, exercise the summary powers herein specified in execution of decrees in such causes.

14. On sale to a stranger of share of Putteedaree land in execution of a decree, the sale not to take effect if on day of sale a Putteedaree co-sharer claims to take it at sale price.

15. Further regulates proceedings under Section 212, Act VIII., 1859; and provides for ensuring a correct register of decrees before execution under that Section.

16, 17, 18. Empowers all Courts to commit for trial at the Court of Session, or to commit for investigation, all persons guilty of offences under Sections 193 to 200, and Sections 205 to 210 of the Indian Penal Code; and (17) to take bail for their appearance; and (18) charge to be framed as required by Code of Criminal Procedure, and to be prosecuted by Magistrate.

19, 20. Empowers all Courts in any case before them to send a charge under Sections 463, 471, 475 or 476 of the Indian Penal Code, to the Magistrate for

investigation, or (20) in case under Section 16 or 19 of this Act, if it be against an European British Subject to a Justice of the Peace.

21, 22. Empowers any Court for offence committed in its presence, under Sections 175, 176 to 180, or 228 of Indian Penal Code, to commit any person whatever, and to sentence to fine 200 Rupees, or imprisonment in Civil Gaol for one month if fine be not paid; or in aggravated case to send him to Magistrate or Justice of the Peace for regular proceeding; and (22) empowers Court to remit the punishment in specified case on submission of the offender.

23. Appeal shall lie from decrees of all Courts of original jurisdiction, except when otherwise provided; and if it be to the Sudder it shall be heard by two or more Judges, and the opinion of one in concurrence with the Judge below shall be final, except in case of difference in the Appellate Court on a point of law, which, in that case, shall be decided by a majority of the Sudder Judges, and the case to be re-argued if only two heard it.

24. Sureties under Section 76 of Act VIII., 1859, may at any time get discharged from their engagements by surrender of their principal.

25. Application for special appeal may be heard by single Judge, and rejected for insufficient stamp or insufficiency of grounds, &c.

26—34. No appeal nor review to lie from decision or order passed under Section 15 of Act XIV., 1859; and (27) no special appeal after regular appeal in Small Cause Court case, not exceeding 500 rupees; but (28) Small Cause Court after order on appeal may state case for opinion of Sudder; and (29) may make order contingent in opinion of Sudder, (30) to be given always by two Judges; (31) at day fixed, and (32) parties may be heard in person or by pleader; and (33) decision of Sudder shall be transmitted to and carried out by Registrar, and (34) costs of reference shall be costs in the suit.

35. Sudder Court may call for record of any Court subordinate to it in case decided by it on appeal, and set aside its decision, and give the proper decision.

36. Court below may require security from party appealing for execution of decision of Appellate Court, or restitution of property taken in execution, or may be ordered by Appellate Court to require such security.

37. Vests in Appellate Courts, in cases appealed, the powers of the original Courts appealed against.

38. Act VIII., 1859, to be followed as near as practicable in miscellaneous cases.

39. Empowers Governments to qualify by restrictions, limitations, &c., their extension of Act VIII., 1859, to Non-Regulation Provinces, with the previous sanction of the Governor General in Council.

40. Empowers Sudder Court to make General Rules and prepare forms.

41. Word "Pleader" to include the words "Counsel" and "Advocate."

42. Names Act VIII., 1859, the Code of Civil Procedure.

43. Postpones Sections 16—22 till Indian Penal Code and Code of Civil Procedure come into operation.

44. This Act to be read as part of Act VIII., 1859.

An Act to amend Act VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).

Preamble.

Whereas it is expedient to amend Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*), and to consolidate the Acts previously passed for the amendment of the said Act, it is enacted as follows:

Acts repealed.

I. Sections 23, 33, 193, 215, 274, 283, 332, 339, 358, 375, and 381 of Act VIII. of 1859, Act IV. of 1860 (*to amend Act VIII. of* 1859), Section X., Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XLIII. of 1860 (*to amend Act VIII. of* 1859) are hereby repealed. [And ss. 184, 185, 186, and 359 of Act VIII., 1859, are suspended, as respects the High Court at Fort William, by Act XX., 1862.]

Costs of serving process.

Requisite sum to be paid into Court within a certain time before process is issued.

II. Every process required to be issued under Act VIII. of 1859, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the costs of such service shall be paid into the Court before the process is issued, within a period to be fixed by the Court issuing the process.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

III. If it appear to the Court in any case relating to land or other immoveable property that such land or other property is not situate within the limits of the jurisdiction of the Court, or in any other case that the cause of action did not arise, and that the defendant is not dwelling or personally working for gain, within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

In what Court a suit against several defendants may be brought.

IV. If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all

the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sudder Court, may order that the suit be heard in any Court subordinate to such Sudder or District Court, and competent in respect of the value of the suit to try the same.

Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

V. If on the day fixed for the defendant to appear and answer to a suit, it shall be found that the summons to the defendant has not been served in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing the summons, the Court may order that the suit be dismissed. Provided that no such order shall be passed, although the summons shall not have been served upon the defendant, if on the day fixed for the defendant to appear and answer he shall have entered an appearance by a pleader or by a duly authorized Agent, when he is allowed to appear by Agent, or shall be in attendance in person.

Provisions of last Section to apply to appeals also.

VI. The provisions of the last preceding Section shall apply to appeals also.

Procedure in case of dismissal of suit under Section 5.

VII. Whenever a suit is dismissed under the provisions of Section 5 of this Act, the plaintiff shall be at liberty to institute a fresh suit, unless precluded by the rules for the limitation of actions, or if the plaintiff shall satisfy the Court within the period of thirty days from the date of the order dismissing the suit, that there was a sufficient excuse for his not making the deposit required within the time allowed, the Court may order a fresh summons to issue upon the plaint already filed.

Procedure on application for discharge by a person arrested in execution of a decree for money.

VIII. When a person arrested under a warrant in execution of a decree for money shall, on being brought before the Court, apply for his discharge on either of the grounds mentioned in Section 273 of Act VIII. of 1859, the Court shall examine the applicant in the presence of the plaintiff or his pleader, as to his then circumstances, and has to his future means of payment, and shall call upon the Plaintiff to show cause why he does not proceed against any property of which the Defendant

is possessed, and why the Defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Court may of its own accord summon witnesses.

IX. If the Court shall at any time think necessary for the ends of justice to examine any person other than a party to the suit and not named as a witness by a party to the suit, the Court, may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. The costs of summoning such person, if not deposited by either party to the suit, shall be paid by the Collector under an order of the Court, and shall be costs in the suit, and shall be paid out of any money recovered an account of costs in the suit whether at the instance of the Government or of either party, before any other costs in the suit are paid.

In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

X. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged, from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum so adjudged and on the costs of the suit from the date of the decree to the date of payment.

How questions regarding amount of mesne profits and interest and

XI. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execu-

Sums paid in satisfaction of decrees, &c., are to be determined.

tion of the decree, or of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by separate suit, and the order passed by the Court shall be open to appeal. Provided that if upon a perusal of the petition of appeal and of the order against which the appeal is made, the Court shall see no reason to alter the order, it may reject the appeal, and it shall not be necessary in such case to issue a notice to the respondent before the order of rejection is passed.

Appeals from orders rejected under Section 364, Act VIII., of 1859, may be admitted on application.

XII. An appeal from an order passed in execution of a decree which shall have been rejected as inadmissible under Section 364 of Act VIII. of 1859, or which would have been inadmissible before the passing of this Act, but which is rendered admissible by this Act, may be admitted on an application in writing to the Court which rejected the appeal, or by which the appeal, had it been admissible before the passing of this Act, would have been cognizable, provided the application be preferred within ninety days from the date of the passing of this Act. The application may be written on the Stamp paper prescribed for petitions in the Court to which it is presented when a Stamp on petitions is required.

Application to be on Stamp paper.

In suits of the nature and amount cognizable by Small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution either against the person or property of judgment-debtor.

XIII. When a decree is passed in any suit of the nature and amount cognizable by Courts of Small Causes constituted under Act XLII. of 1860, the Court passing the decree, whether such Court be a Court constituted as aforesaid or any other Court, may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, direct immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court

passing the decree, or against the personal property of the judgment-debtor within the same limits. If the warrant be directed against the personal property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, which shall be indicated by the judgment-creditor.

Co-sharer of a share of a Putteedaree Estate sold in the execution of decree may claim to take the share at the sale price.

XIV. When the land sold in execution of a decree is a share of a Putteedare Estate paying revenue to Government as defined in Section II., Act I., of 1841 (*for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Putteedaree Estates*), if the lot shall have been knocked down to a stranger, any co-sharer, other than the judgment-debtor or any other member of the coparceenary, may claim to take the share sold at the sum at which the lot was knocked down. Provided that the claim be made on the day of sale, and that the claimant fulfil all the conditions of the sale.

Proviso.

Procedure on receiving application for execution of decree.

XV. The Court, on receiving any application for execution of a decree containing the particulars mentioned in Section 212 of Act VIII. of 1859, or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

Procedure when certain offences under Chapter XI. of the Penal Code are committed in any case pending before any Court.

XVI. When in any case pending before any Court any witness or other person shall appear to the Court to have been guilty of an offence described in Sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, or 210 of the Indian Penal Code, the Court may commit such person to take his

trial for the offence before the Court of Session, or after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

Court may take bail, and bind over witnesses to give evidence.

XVII. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate, and may bind over any person to appear and give evidence before the Magistrate.

How the charge is to be framed.

XVIII. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XIII. of the Code of Criminal Procedure, and shall transmit the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case, together with the witnesses for the prosecution and defence, before the Court of Sessions.

Procedure in case of certain offences relating to documents.

XIX. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate, a charge described in Sections 463, 471, 475, or 476 of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it under the rules for the time being in force.

Procedure in case person accused under Section 16 or 19 is a European British subject.

XX. If the person accused or any one of the persons accused in any case falling under Section 16 or Section 19 of this Act is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such Officer shall proceed according to law.

Procedure in certain cases of contempt.

XXI. When any such offence as is described in Sections 175, 178, 179, 180, or 228 of the Indian Penal Code is committed in the view or presence of any Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court, on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding two hundred Rupees, or by imprisonment in the Civil Gaol for a period not exceeding one month unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding two hundred Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53, George III., c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

Discharge of an offender on his submission.

XXII. When any person has been sentenced to punishment under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Appeal to lie from all decrees, except when expressly prohibited.

Appeal to Sudder Court to be heard by two or more Judges.

XXIII. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorised to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: if in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point on which they differ, and the case shall be re-argued upon that question before one or more of the other Judges, and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard.

Procedure in case of application by sureties to be discharged.

XXIV. The sureties for the appearance of any person under Section 76 of the said Act VIII. of 1859, may at any time apply to the Court in which they became such sureties to be discharged from their engagements. On such application being made the Court shall summon such person to attend, or if it shall think fit may issue a warrant in the first instance for his appearance. On the appearance of such person pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and thereupon proceedings shall be had under Sections 77 and 78 of the said Act.

Application for the admission of a special appeal informally drawn up, how to be dealt with.

XXV. If the application for the admission of a special appeal be not written on a Stamp paper of the prescribed value, or if it be not drawn up in the manner laid down in Section 374 of Act VIII. of 1859, or if it do not state any ground on which a special appeal will lie under the provisions of Section 372 of the said Act, the Court may reject the application, or may return it to the party for the purpose of being corrected. The order for rejecting the application or for returning it to the party may be passed by a single Judge of the Court. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D of the said Act, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals, so far as the same may be applicable.

No appeal from order or decision under Section 15, Act XIV., of 1859.

XXVI. No appeal shall lie from any order or decision passed in any suit instituted under Section 15, Act XV., of 1859 (*to provide for the limitation of suits*), nor shall any review of any such order or decision be allowed.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

XXVII. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), when the debt, damage, or demand for which the original suit shall be instituted shall not exceed five hundred Rupees; but every such order or decision shall be final.

Reference of question to the Sudder.

XXVIII. If in any suit in which an order or decision is made final under the last preceding Section, any question of law, or usage having the force of law or the construction of a document affecting the merits of the case shall arise, on which the Court trying such suit, shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the suit, draw up a

statement of the case, and submit such statement with its own opinion for the decision of the Sudder Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XXIX. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court until the receipt of the order of that Court.

Two or more Judges of Sudder Court to decide cases referred under Section 28.

XXX. Cases referred for the opinion of the Sudder Court shall be dealt with by two or more Judges of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

XXXI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Parties may appear and be heard in person or by pleader.

XXXII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Decision of Sudder Court how to be transmitted.

XXXIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Costs of reference to Sudder Court.

XXXIV. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.

XXXV. The Sudder Court may call for the record of any case decided on appeal by any Subordinate Court in which no further appeal shall lie to the Sudder Court, if such Subordinate Court shall appear in hearing the appeal to have exercised a jurisdiction not vested in it by law, and the Sudder Court may set aside the decision passed on appeal in such case by the Subordinate Court, or may pass such other order in the case as to such Sudder Court may seem right.

Security may be taken when execution is required of a decree which has been appealed against.

XXXVI. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court. The Appellate Court may in any such case direct the Court which pronounced the decree to take such security.

Appellate Court to have same powers as Courts of original jurisdiction.

XXXVII. Unless when otherwise provided, the Appellate Court shall have the same powers in cases of appeal which are vested in the Courts of original jurisdiction in respect of original suits.

Procedure prescribed by Act VIII. of 1859, to be followed in all future miscellaneous cases and proceedings.

XXXVIII. The procedure prescribed by Act VIII., of 1859, shall be followed as far as it can be in all miscellaneous cases and proceedings which after the passing of the Act shall be instituted in any Court.

Extension of Act to Non-Regulation Provinces.

XXXIX. When, under the provisions of Section 385 of the said Act, the Act is extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the Territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any Territory subordinate to such Government, and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor General of India in Council shall be requisite.

Sudder Court to make general rules for regulating proceedings, &c.

XL. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and the Courts subordinate to it, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, for keeping all books, entries,

and accounts to be kept by the officers, and for the preparation and submission of any statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed under this Section shall be published in the "Official Gazette."

Interpretation of "Pleader."

XLI. The word "Pleader" as used in this Act shall include the words "Counsel" and "Advocate".

Short Title.

XLII. Act VIII. of 1859, shall be called the Code of Civil Procedure.

Sections 16 to 22 of this Act when to take effect.

XLIII. Sections 16, 17, 18, 19, 20, 21, and 22 of this Act shall not take effect until the date on which the Indian Penal Code and the Code of Criminal Procedure shall come into operation.

Construction.

XLIV. This Act shall be read and taken as part of Act VIII. of 1859.

BANKS OF BENGAL, MADRAS, AND BOMBAY AND CURRENCY.

Act No. XXIV. of 1861.

[*Received the assent of the G. G. on the* 31*st August*, 1861.

Recites expediency of authorising Banks of Bengal, Madras, and Bombay, to engage for issue of Currency Notes.

1. Authorises those Banks to agree under their corporate seal with the Secretary of State for India in Council, through the Governor General of India in Council, Governor of Madras in Council, and Governor of Bombay in Council, for superintending, &c., the issue, &c., of Government Promissory Notes payable on demand as a Paper Currency, and for carrying on agency of issue under Act XIX., 1861, and for transacting any business heretofore of the General Treasuries.

2. Authorizes those Banks to adopt modes of transacting this new kind of business in accordance with the agreements hereby legalized.

An Act to enable the Banks of Bengal, Madras, and Bombay, to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.

Preamble.

Whereas it is expedient to authorize the Banks of Bengal, Madras, and Bombay to enter into the agreements and arrangements hereinafter mentioned, it is enacted as follows:

Banks may enter into certain arrangements with Government.

I. It shall be lawful for any of the said Banks, by agreements under their corporate seal, to enter into agreements or arrangements with the Secretary of State for India in Council, through the Governor General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council, respectively, for superintending, managing, and becoming agents for the issue, payment, and exchange of Promissory Notes of the Government of India, payable on demand under Act XIX., of 1861 (*to provide for a Government Paper currency*), or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India; for the carrying on the business of an Agency of issue under the said Act XIX. of 1861 in any circle of issue in which any of the said Banks shall have established a Branch Bank under Act VI., of 1839 (*relating to the Bank of Bengal*), or any other Act; and for transacting any part of the business of, or hitherto generally transacted by, or at the General Treasuries of the Governments at the several Presidencies of Fort William, Madras, and Bombay, respectively.

Banks may transact the business incident to such arrangements.

II. It shall be lawful for the said Banks of Bengal, Madras, and Bombay, in addition to the modes of business in which they may now by law be respectively engaged, to transact, in accordance with the provisions of the said agreements or arrangements entered into under Section I. of this Act, all or any of the business appertaining to the superintendence, management, or agency, for the issuing, payment, or exchange in the first Section mentioned and the business of an Agency of issue under the said Act XIX., 1861, in any such circle of issue as aforesaid, or all or any of the business of, or hitherto generally transacted by the General Treasuries in that Section mentioned.

Supplemented by Act XXIX., 1863.

THE CODE OF CRIMINAL PROCEDURE.

ACT No. XXV. OF 1861.

[*Received the assent of the G. G. on the 5th Sept.*, 1861.

Recites expediency of simplifying the procedure of Criminal Courts not established by Royal Charter.

1. Act to be called "Code of Criminal Procedure."

2. Rule of Interpretation.

3—20. Explain words (3) "British India;" (4) "Special law;" (5) "Local law;" (6) "moveable property;" (7) of "number;" (8) of "Gender;" (9) "enquired into;" "determined;" (10) "written;" (11) "Criminal Court;" (12) "Court of Justice;" (13) "Court of Session;" (14) "Magistrate of the district;" (15) "Magistrate;" (16) "the powers of a Magistrate;" (17) "any of the powers of a Magistrate;" (18) "District;" "Division of a district;" (19) "Sudder Court;" (20) "Year;" "Month."

Preamble.

Whereas it is expedient to simplify the Procedure of the Courts of Criminal Judicature not established by Royal Charter, it is enacted as follows:

CHAPTER I.

OF DEFINITIONS.

Short title.

1. This Act shall be called the Code of Criminal Procedure.

Interpretation.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

"British India."

3. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22, Vic., c. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Special Law."

4. The words "special law" shall denote a law applicable to a particular subject.

"Local Law."

5. The words "local law" shall denote a law applicable only to a particular part of British India.

"Moveable Property."

6. The words "moveable property" shall include corporeal property of every description, except land and

things attached to the earth or permanently fastened to any thing which is attached to the earth.

Number.

7. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

8. Words importing the masculine gender shall include the feminine.

"Enquired into."

9. The words "enquired into" shall be deemed to comprise every proceeding preliminary to trial; and the word "determined" to comprise trial, and every subsequent proceeding, including the punishment of the offender.

"Determined."

"Written."

10. The word "written" shall include "printed," "lithographed," and "engraved."

"Criminal Court."

11. The words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance or on appeal, or for commitment to any other Court or Officer.

"Court of Justice."

12. The words "Court of Justice" shall denote a Judge who is empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Session."

13. The words "Court of Session" shall, subject to the limitations in Section 22, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Magistrate of the District."

14. The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such Officer is called.

"Magistrate."

15. The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

"The powers of a Magistrate."

16. The words "the powers of a Magistrate" shall imply the full powers of a Magistrate.

17. The words "any of the powers of a Magistrate" shall denote powers less than the full powers of a Magistrate.

"Any of the powers of a Magistrate."

18. The local jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local jurisdiction in a particular part of a District vested in a Magistrate other than the Magistrate of the District, shall be deemed a "division of a District."

"District."

"Division of a District."

19. In any part of British India to which this Act shall be extended, under the provisions of Section 445, the words "Sudder Court" shall denote the highest Criminal Court of Appeal or revision in such part established.

"Sudder Court."

20. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

"Year."
"Month."

CHAPTER II.

OF THE JURISDICTION OF THE CRIMINAL COURTS.

21. The several grades of Criminal Courts shall have the respective jurisdictions assigned by this Act except as to offences otherwise provided for by special law. Court of Session may sentence to death, subject to confirmation by the Sudder, and pass all other sentences without confirmation. In Bombay, Assistant Sessions Judges may try cases by delegation, and pass sentence within narrower and specified limits, and subject to appeal to Sessions Judge.

Magistrates may exercise jurisdiction over offences punishable with 2 years' imprisonment and fine Rs. 1,000.

Subordinate Magistrates (1st Class) over offences punishable with 6 months' imprisonment and fine Rs. 200; (2nd Class) imprisonment 1 month and fine Rs. 50.

No Officer inferior to Magistrate to sentence to solitary confinement.

22. Refers to Schedule, for specification of offences, and to clause 7 for specification of Courts having cognizance of them; and defines the powers (*a*) of Court of Session; (*b*) of Magistrate; (*c*) Subordinate Magistrate; (*d*) of Assistant Sessions Judge in Bombay, to punish.

23. Empowers Local Government to invest any person with the powers of a Magistrate or Subordinate Magistrate *ad hoc*.

24, 25. Criminal Courts to have jurisdiction over all persons not excepted by law or act of the Governor General in Council; and (25) no person by reason of birth, &c., to be exempted from Code of Procedure, in Courts having jurisdiction *quoad* the person.

26, 27. Offences to be tried where committed, or (27) where consequential responsibility ensued; saving liability of European British subjects to Supreme Courts.

28. Abetment may be tried either where act of abetment or where the offence abetted was committed.

29, 30. Offences committed on the boundary of different districts may be tried in either district; and (30) committed on person or property *in transitu* by land or water, in any district in the course of the journey, &c.

31. Receivers of stolen property may be tried wherever the property is or has been in their possession, or wherever it was stolen.

32. Person charged as thug, or with murder as a thug, or with dacoity with or without murder, or as belonging to gang, &c., or wandering gang, may be brought before Magistrate of place where he is, and sent for trial to Court of Session.

33. Convicts under sentence escaping from custody, may be tried either where re-captured or where tried originally.

34, 35. Empowers Sudder Court to decide in case of doubt where the trial should be; and (35) to order transfer of case for trial to other Court.

36. Empowers Magistrates to change the place or venue for trials.

37—41. Empowers Magistrates and persons having powers of Magistrate to take proceedings for commitment of Europeans; and (38) empowers Local Government to authorise Subordinate Magistrates to take such proceedings; but (39) no person not a Justice of the Peace shall commit or hold to bail European British subjects for Supreme Court trial; but (40) any Magistrate may receive complaint against British subject, and issue warrant for arrest for purpose of being brought before Justice of the Peace; and (41) such Justice of the Peace may proceed upon such arrest; (42) saves criminal appeal of British subject to Sudder, also as extended by Act VII., 1853.

Offences cognizable by Criminal Courts.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code (Act XLV. of 1860), or under any special or local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

By what Courts the offences mentioned in the Schedule are triable, and within what limits such Courts may pass sentence.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits (that is to say):—

Powers of Court of Session.

The Court of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law, or fine to an unlimited amount, or both transportation and fine, or imprisonment and fine in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

Assistant Sessions Judges in Bombay.

In the Presidency of Bombay it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge: and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the following limits:—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorised by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Sessions Judge. The Sessions Judge may review and hear appeals, against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance) or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

Powers of the Magistrate of the district.

The Magistrate of the District or other Officer authorised to exercise the powers of a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorized by law, or fine to the extent of one thousand Rupees, or both imprisonment and fine, in all cases in which both punishments are authorised by the Indian Penal Code.

Subordinate Magistrates or Officers authorised to exercise any of the powers of a Magistrate—

Powers of Subordinate Magistrates, 1st Class.

1st Class. Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in all cases in which both punishments are authorised by the Indian Penal Code.

2nd Class.

2nd Class. Imprisonment of either description not exceeding one month, or fine, not exceeding fifty Rupees, or both imprisonment and fine in all cases in which both punishments are authorised by the Indian Penal Code.

No sentence of solitary confinement, under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

Local Government may invest any person with powers of Magistrate or Subordinate Magistrate.

23. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise, by such person, of such powers under this Act or under any special or local law.

Criminal Courts to have jurisdiction over all persons, except persons expressly exempted.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as by any Act of Parliament or by any regulation of the Codes of Bengal, Madras, and Bombay respectively, or by this Act or any other Act of the Governor General of India in Council, are or shall be exempted from their jurisdiction.

No person exempted from Criminal Procedure by reason of place of birth or of descent.

Proviso.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act. Provided that nothing in this Section shall be held to authorise the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

Offence to be ordinarily tried in the jurisdiction where it is committed.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District or division of a District in which the offence was committed. Provided

that nothing in this Section shall exempt European British subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

Proviso.

27. When a person shall be accused of the commission of any offence by reason of any thing which has been done, and of any consequence which has ensued, such offence may be enquired into or determined in any District or division of a District in which any such thing shall have been done or any such consequence shall have ensued.

May be tried in the jurisdiction where the act is done, or where the consequence ensues.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District or division of a District in which the offence abetted may be enquired into or determined by any Court which has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed; or the abetment may be enquired into or determined in any District or division of a District within which the abettor has done any thing for abetting the commission of such offence.

Abetment.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same Local Government or not, or of two or more divisions of a District, or shall be begun in one District or division of a District and completed in another, whether such Districts be subject to the same Local Government or not, every such offence may be enquired into or determined in any of such Districts or divisions of a District, in the same manner as if it had been actually and wholly committed therein.

Offence committed on boundary.

30. When any offence shall be committed on any person, or on, or in respect of, any property in or upon any coach, cart, or other carriage or conveyance, or upon any beast of burden employed on any journey, or shall be committed on any person, or on, or in respect of, any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District or division of a District through any part whereof such coach, cart, carriage, conveyance,

Offence committed during journey, &c.

beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District or division of a District; and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts or divisions of a District, such offence may be enquired into or determined in either of such Districts or divisions of a District, through or adjoining to, or by the boundary of any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District or division of a District.

Receiving, &c., stolen property.

31. If any person be charged with any offence punishable under Section 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District or division of a District in which such person shall have, or shall have had, such stolen property in his possession, or in any District or division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determined.

Being a thug, &c.

32. Whenever a person is charged with being a thug or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into, in any District in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Escape from lawful custody under sentence.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a

commutation of such sentence; or shall be charged with any offence punishable under Section 227 of the Indian Penal Code or under Section XII. of Act XXIV. of 1855 (*relating to Penal Servitude*), the offence may be enquired into or determined, either in the District or division of a District in which such person shall be apprehended and re-taken, or in the District or division of a District in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended, to decide in which District the offence shall be determined.

Sudder Court may transfer any case from one jurisdiction to another.

35. It shall be competent to the Sudder Court to order the transfer of any criminal case or appeal from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction, or to order that any offence shall be enquired into or determined in any District, or division of a District, other than in which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

Magistrate may withdraw any case from a subordinate Court, and try it himself, or refer it to any other such Court.

36. It shall be competent to the Magistrate of the District, or to a Magistrate in charge of a division of a District, to withdraw any criminal case from any Court subordinate to such Magistrate within his District or division, and to try the case himself, or to refer it for trial to any other such Court competent to try the same.

Commitment for trial before Supreme Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court, and to exercise all the powers necessary for such purpose.

Subordinate Magistrate may be empowered to prepare cases for trial before the Court of Session or Supreme Court.

38. The Local Government may empower any Subordinate Magistrate of the first or second class, not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Only Justices of the Peace empowered to commit European British subjects for trial.

39. No person who is not a Justice of the Peace shall commit, or hold to bail, any European British subject to take his trial before a Supreme Court of Judicature.

Procedure when a European British subject is charged with an offence triable by Supreme Court.

40. When a European British subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person, with a view to the complaint being investigated by a Justice of the Peace.

Procedure when a European is arrested by an Officer not being a Justice of the Peace.

41. When a European British subject has been arrested under a warrant, issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the Supreme Court of Judicature.

Saving of jurisdiction given by 53 Geo. III., c. 155, s. 105.

42. Nothing in this Chapter shall interfere with the jurisdiction given by the Statute 53, George III., c. 155, s. 105, or Act VII. of 1853 (*to extend the jurisdiction of Magistrates under the 53 George III., c. 155, s. 105, in cases of assault, forcible entries, and*

other injuries accompanied by force not being felonies). Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by Justices of the Peace.

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CHAPTER III.

PRELIMINARY RULES.

43. Evidence of complainants and witnesses to be taken on oath or affirmation, &c., according to law.

44. Out of fines, compensation may be ordered to injured party, subject to result of appeal in case appealable.

45, 46. Applies Sections 64 and 65 of Penal Code to fines where imprisonment also may be awarded; and (46) empowers Courts having limited power to punish to accumulate punishments, on separate convictions, beyond the limit, but cumulative imprisonment not to exceed 14 years, nor, if sentence be by Magistrate, to exceed twice the extent of the Magistrate's single power.

47, 48. Escaped convicts may be sentenced for term to commence from expiration of current sentence or from date; (48) same as to further sentences on all other convicts under sentence.

49. Empowers Local Government to transfer convicts from one goal to another.

50—52. Court in sentencing to transportation not to name place; (51) Government of India to appoint place within British India, and Local Government to remove such place; (52) except in case of sentence on convicts in such place.

53. Sentence of death to direct hanging by the neck until dead.

54. Empowers Local or General Government to remit punishment with or without conditions.

55. No person to be tried for the same offence after one conviction or acquittal, except for culpable homicide, in case of death happening after first conviction or acquittal.

56—59. Person charged with criminal breach of trust under Section 405 of Indian Penal Code, or as carrier, wharfinger, and wharehouse-keeper, under Indian Penal Code, Section 407; or (57) as clerk or servant, under Indian Penal Code, Section 408, may be convicted instead, of kindred offence under Section 378, 381; and (58) *vice versa* any person charged with theft under Section 378 of Indian Penal Code, or under Section 380, may be convicted of criminal misappropriation or of breach of trust under Sections 403, 405; and (59) clerk or servant charged with theft under Section 381, may be found guilty of criminal misappropriation under Section 403 or Section 404, as the case may be, or of criminal breach of trust under Section 405 or Section 408, as the case may be; and (60) no person found guilty under the provisions of these 4 Sections, 56, 57, 58, 59, shall be tried a second time on same facts.

61. Court sentencing to a fine may issue warrant to levy it.

62, 63. Empowers Magistrate to give such directions respecting property in possession, as may be likely to prevent danger, &c., or riot or affray; and (63) to issue injunction not to repeat or continue public nuisance.

43. In all Criminal Courts complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Complainants and witnesses to be examined according to law for time being in force.

44. In cases in which by the sentence or order of any Criminal Court a fine is imposed upon a conviction for any offence made punishable by fine, whether the offence be punishable or punished by fine only or otherwise, it shall be lawful for such Court to order that the fine or any part thereof, not exceeding the loss appearing to be caused to the person who has suffered by such offence, and any special damage of a pecuniary nature that may have resulted to such person by such offence, and any expenses incurred by the complainant in the prosecution, as the Court may consider reasonable and proper, be paid to or for the benefit of such person according to the discretion of the Court, and in every such case the fine when levied or paid shall be paid and distributed accordingly. If the fine be awarded by a Court whose decision is subject to revision, the amount awarded to the person injured shall not be paid to such person until a period of two months shall have elapsed from the date of the award.

Court may apply portion of fine in compensation for loss or damage caused, &c.

45. In every case punishable with imprisonment as well as fine in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine. Provided that in every such case decided by a Magistrate, the period of imprisonment awarded in default of payment of the fine shall, in no case, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Imprisonment in default of payment of fine.

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Sentence in cases of conviction of two or more offences.

46. When a person shall be convicted at one time of two or more offences punishable under the same or different Sections of the Indian Penal Code, it shall be lawful for the Court to sentence such person for the offences of which he shall have been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties when consisting of imprisonment to commence the one after the expiration of the other. It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which such Court is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court. Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years; and provided also that, if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which such Magistrate is by his ordinary jurisdiction competent to inflict.

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Currency of sentence of escaped convicts.

47. When sentence shall be passed on an escaped convict for such escape or for any other offence, the Court may direct such sentence to take effect immediately, or after such escaped convict shall have suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

Judgment on offender already imprisoned under sentence for another crime.

48. When sentence shall be passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, or if such person shall be undergoing a sentence of imprisonment, and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately or at the expiration of the imprisonment to which such person shall have been previously sentenced. Provided that nothing in this Section shall be held to excuse such person

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from any part of the punishment to which he is liable upon such former or subsequent conviction.

Local Government may order removal of a prisoner from one gaol to another.

49. When any person is sentenced to imprisonment, it shall be lawful for the Local Government to order the removal of such person during the period prescribed for his imprisonment from the gaol or place in which he is confined, to any other gaol or place of imprisonment within the jurisdiction of the same Local Government.

Place of transportation not to be specified in sentences.

50. When any person shall be sentenced to transportation, the Court passing the sentence shall not specify in its sentence the place to which such person shall be sent for the purpose of undergoing the sentence.

Governor General in Council to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

51. It shall be lawful for the Governor General of India in Council, from time to time, to appoint a place or places within British India to which persons sentenced to transportation shall be sent: and the Local Government, or some Officer duly authorised by such Government, shall give orders for the removal of such persons to the place or places so appointed.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

52. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence it shall not be necessary for the Local Government to order the removal of such person from the place in which he is so undergoing transportation.

Sentence of death.

53. When any person shall be sentenced to death, the sentence shall direct that such person be hanged by the neck till he is dead.

The Governor General in Council or the Local Government may remit a punishment.

54. When any person has been sentenced to punishment for an offence, the Governor General of India in Council, or the Local Government, may, at any time, without conditions, or upon any conditions which such persons shall accept, remit the whole or any part of the punishment to which he shall have been sentenced.

Party tried upon formal charge not liable to renewed prosecution.

55. A person who has once been tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried again for the same offence.

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Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

A person charged with criminal breach of trust may be found guilty of theft.

56. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper under Section 407 of the said Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by a Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said Section 378.

A person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant.

57. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378 or Section 381, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft may be found guilty of misappropriation or breach of trust.

58. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel, under Section 380 of the said Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury, in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 403 or Section 405, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft as a servant may be found guilty of misappropriation.

59. If upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master, under Section 381 of the Indian Penal Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the offence under the said Section 403, Section 404, Section 405, or Section 408, as the case may be; and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such section.

60. No person charged and tried for an offence under any

Any person charged under the last four Sections and found guilty, liable to be charged again.

Section of the Indian Penal Code in the last four Sections of this Act mentioned, and found guilty of another offence under the provisions of any other of the said Sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the Section under which he was charged, or under the Section under which he was found guilty.

Levy of fines.

61. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, to issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender which may be found within the jurisdiction of the Magistrate of the District.

Magistrate may issue orders to prevent obstructions, &c.

62. It shall be lawful for any Magistrate, by a written order, to direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate shall consider that such direction is likely to prevent, or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, or is likely to prevent, or tends to prevent, danger to human life, health, or safety, or is likely to prevent, or tends to prevent, a riot or an affray. [Extended to Calcutta by Act XXI., 1864.]

Magistrate may prohibit the repetition or continuance of public nuisances.

63. Any Magistrate may enjoin any person not to repeat or continue a public nuisance. [Extended to Calcutta by Act XXI., 1864.]

CHAPTER IV.

OF THE SUMMONS.

64—68. Process to compel appearance may be by summons or warrant, (65) to be obtained by complaint (66) before Magistrate, on oath and signed by complainant; and (67) said process to be issued thereupon if ground sufficient, otherwise to be dismissed; or (68) except as is specially provided for in Section 11, to be issued without complaint on Magistrate's own personal cognizance, except for offences under Indian Penal Code, Chapters 19, 20, 21.

69—72. Summons to be in form A of Schedule; (70) to be addressed ordinarily to Police Officer; and (71) served personally, or if accused cannot be found, left with adult male of family; or if none such (72) to be posted on house.

73, 74. Warrant to arrest may be issued notwithstanding previous summons; and (74) either may be issued against person in the District for suspected offences committed out of the jurisdiction.

75. All summonses under this Act to be according to rules of the Act.

Proceeding to compel appearance.

64. When an offence has been committed, or is supposed to have been committed, the proceeding, in order to compel the person known or suspected to have committed such offence to appear for the purpose of enquiry concerning the same, may be by summons or arrest.

Complaint.

65. A summons or a warrant of arrest may be obtained on a complaint as hereinafter provided.

Examination of complainant.

66. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the District, such Magistrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant, and also by the Magistrate.

Magistrate, how to proceed on complaint.

67. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or, in cases in which a warrant, may issue his warrant for causing the person accused to appear before himself or some other Magistrate having jurisdiction. If in the judgment of such Magistrate there be no sufficient ground for proceeding, he shall dismiss the complaint.

Magistrate may take cognizance of offences without complaint made.

68. Except as is otherwise provided in Chapter XI., of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person. The provisions of this Section shall not apply to the

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offences described in Chapters XIX., XX., and XXI. of the Indian Penal Code.

Summons, what it is to contain, and how to be directed.

69. Every summons issued by a Magistrate to an accused person shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form A given in the Appendix, or to the like effect.

Summons by whom to be served.

70. A summons shall ordinarily be issued through a Police Officer; but the Magistrate issuing the summons may, if immediate service be necessary, and no Police Officer be immediately available, direct the summons to be served by any other person.

Summons, how to be served.

71. The summons shall be served on the accused personally, or in case the accused person shall not be found, it may be left for him with some adult male member of his family residing with him.

Mode of service if accused cannot be found, &c.

72. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving Officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Notwithstanding summons, warrant may issue in certain cases.

73. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person, as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Summons or warrant when grantable for an offence committed beyond Local Jurisdiction.

74. The Magistrate of the District, or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this Chapter relating to a summons and its issue applicable to all summonses.

75. The provisions relating to a summons and its issue contained in this Chapter, shall be applicable to every summons issued under this Act.

CHAPTER V.

OF THE WARRANT AND ITS EXECUTION.

76—80. Warrant to be executed, signed and sealed, and in form B of Schedule; and (77) ordinarily to be directed to Police Officer; or (78) if to other person, he may be aided by person at hand; and (79) if directed to several may be executed by all or any of them; or (80) if directed to Police Officer may be endorsed for execution by any other Police Officer.

81. Magistrate may aid in execution of his own warrant, and personally direct arrest without a warrant.

82. All persons bound to assist Magistrate or Police in suppression of riot and in other specified cases.

83—85. Warrant ordinarily to be executed within jurisdiction of the Magistrate who issued it; but (84) may be executed anywhere else, and party arrested to be taken before Magistrate of place where arrest is made, who for bailable charge may take bail, or forward prisoner to proper Magistrate; but if (85) the arrest be within 20 miles of the place of issue of warrant, prisoner may be taken to Magistrate who issued warrant.

86, 87. Warrants for arrest may be sent by post to Magistrate of another place for execution, or (87) in Presidency Town to Chief Commissioner or Police Magistrate.

88, 89. On arrest of person under Section 74 in respect of an offence known or suspected in another jurisdiction, Magistrate, unless competent to complete the enquiry, may bail or forward prisoner to proper District, or apply to Sudder Court for directions, except (89) in case of arrest by Subordinate Magistrate, who must send to his immediate superior in first instance.

90—95. Police Officer making arrest, to notify substance of and show the warrant; and (91) touch of the person is necessary to complete the arrest, except in case of voluntary submission; and (92) in case of forcible resistance, necessary means may be used to effect arrest; and (93) Officer may after demand enter house of third person; and (94) may break open outer or inner door after demand, and (95) apartments of native females, the women previously being warned to retire.

96. Person arrested not to be put under greater restraint than is necessary to prevent escape.

97. Arresting Officer to take prisoner without delay before proper Magistrate.

98. Police Officer, &c., not to hold out inducement to prisoner to make disclosure, nor to caution him against doing so.

99. These provisions to apply to all warrants issued under this Act.

Form of warrant.

76. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the form B given in the Appendix, or to the effect.

Warrants to whom to be directed.

77. A warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing a warrant may, if immediate service be necessary and no Police Officer be immediately available, direct the warrant to any other person.

When directed to any person other than a Police Officer.

78. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

To several persons jointly.

79. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

Police Officer may endorse warrant to another Officer.

80. A warrant directed to a Police Officer may also be executed by any other Police Officer whose name shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Magistrate issuing a warrant may personally superintend its execution.

81. The Magistrate by whom a warrant of arrest is issued may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

All persons bound to assist in certain cases.

82. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the Peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police Officer is authorised to arrest.

Where a warrant of a Magistrate must be executed.

83. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

Warrant executed in another jurisdiction.

84. When any person against whom a warrant is issued by a Magistrate shall escape, go into, or be, in any place out of the jurisdiction of the Magistrate issuing such warrant the warrant may be executed in such place, and if the person against whom the warrant is issued is arrested in such place, the Police Officer, or other person

executing the warrant, shall carry him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and such person shall be willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom such person is brought shall take bail of such person for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued. If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued. If the arrest be made within the local limits of the jurisdiction of a Supreme Court of Judicature, the person accused, when arrested, shall be taken before the Chief Commissioner of Police or a Police Magistrate. Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

If arrest be made within jurisdiction of a Supreme Court.

85. If the place of arrest, under the last preceding Section, be within twenty miles from the place at which the warrant was issued, the person arrested may be carried, in the first instance, before the Magistrate who issued the warrant.

If arrest be made within 20 miles, person arrested may be carried before the Magistrate who issued the warrant.

86. It shall be competent to a Magistrate, issuing a warrant for the arrest of a person out of his jurisdiction, to direct the warrant to the Magistrate of the District in which such person is, or is supposed to be, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on such warrant, and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed the warrant, and shall be dealt with by such Magistrate as provided in Section 84 of this Act.

Warrant to be endorsed may be sent by post.

87. A warrant issued under the last preceding Section for execution within the local limits of a Supreme Court of Judicature, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in Section 84 of this Act.

Warrants for execution within limits of Supreme Court to be addressed to Chief Commissioner or Magistrate of Police.

88. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 74 of this Act, in respect of an offence known or suspected to have been committed in another District, or division of a District, the Magistrate who issued the warrant shall, unless he is authorised to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable. When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the Sudder Court.

Magistrate, how to proceed on arrest under his own warrant for an offence committed out of his jurisdiction.

89. If the arrest was made under a warrant issued under Section 74 of this Act by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed, shall issue his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police Officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued. If the offence of which the person arrested is suspected shall have been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issued the warrant under Section 74 of this Act, shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

Subordinate Magistrate, how to proceed in such cases.

90. A Police Officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Notification of substance of warrant.

Warrant, how to be executed.

91. In making an arrest, the Police Officer or other person, executing the warrant, shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting an endeavour to arrest.

92. If a person against whom a warrant of arrest is issued shall forcibly resist the endeavour to arrest him, it shall be lawful for the Police Officer or other person executing the warrant, to use all such means as may be necessary to effect the arrest.

Search of house entered into by person against whom warrant has been issued.

93. If there is reason to believe that any person, against whom a warrant has been issued, has entered into, or is within any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking of outer door or window.

94. The Police Officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused, or of any other person, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open a zenanah or female apartment.

95. If information be received that a person accused of any offence, for which a warrant may issue, is concealed in a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant, shall take such precautions as may be necessary to prevent the escape of the accused person, and if the accused person shall not deliver himself up, the Police Officer or other person authorized to execute the warrant may, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance, break open such zenanah or apartment, and execute the process entrusted to him, first giving notice to any woman as aforesaid in such zenanah or apartment,

not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and affording her every reasonable facility for withdrawing.

No unnecessary restraint.

96. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Party arrested to be brought immediately before the Magistrate.

97. The Officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

No threat, promise, or caution, as to disclosure by party arrested.

98. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

Provisions in this Chapter relating to a warrant and its issue applicable to all warrants.

99. The provisions relating to a warrant and its issue contained in this Chapter, shall be applicable to every warrant issued under this Act.

CHAPTER VI.

OF ARREST WITHOUT WARRANT.

100, 101. In following cases Police Officer may arrest without warrant; (1) for offences committed in his sight as specified in Column 3 of Schedule of this Act; (2) for same offences on complaint or suspicion; (3) persons under hue and cry; (4) proclaimed offenders; (5) persons found with stolen property; and (6) persons obstructing the Police in execution of duty; and (101) lurkers, &c., reputed robbers, house-breakers, thieves, receivers, and persons of notorious bad lives.

102. Police may prevent and interpose for prevention of offences in Column 3 of Schedule of this Act.

103, 104. Police receiving shall also report information of design to commit such offences; and (104) of knowing of such design may arrest without warrant the designer.

105. Police Officer may prevent injury to any public building, work of art, road, bridge, tank, well, &c.

106, 107. Police to be allowed by occupiers to search houses for persons

whom they have power to arrest without warrant; and (107) if ingress be refused, they may take means to prevent escape of concealed persons.

108. Police may detain persons under suspicion who refuse to give their name or give a false name.

109. Persons arrested without warrant, to be sent to Magistrate or Police Superintendent without delay.

110. Magistrate may order any person to arrest for offence committed in his view.

111. Magistrate or Police Station Officer may command unlawful assembly to disperse.

Police Officer may arrest without warrant in certain cases.

100. A Police Officer in the cases hereinafter mentioned, may without orders from a Magistrate and without a warrant, arrest—

First.—Any person who in the sight of such Police Officer shall commit an offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made or reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised or his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person who is found with stolen property in his possession.

Sixthly.—Any person who shall obstruct a Police Officer while in the execution of his duty.

Vagabonds.

101. An Officer in charge of a Police Station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen, or who is of notoriously bad livelihood.

Police may interfere to prevent offences.

102. It shall be the duty of every Police Officer to prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Column 3 of the Schedule annexed to this Act as an offence for which Police Officers may arrest without a warrant.

Information to be communicated.

103. It shall be the duty of a Police Officer who shall receive information of a design to commit any such offence, to communicate such information to the Police Officer to whom he is subordinate, and to any other Officer whom it may concern, to prevent or take cognizance of the commission of any such offence.

May arrest to prevent offences.

104. A Police Officer, knowing of a design to commit any such offence as aforesaid, may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

105. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel, or to prevent the removal or injury of any public land-work or buoy, or other mark used for navigation.

Person in charge of house entered into by another of whom Police Officer is in search to allow ingress, &c.

106. If there is reason to believe that any person liable to arrest under this Chapter without a warrant, of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure if ingress be not obtained.

107. If ingress to such house or place cannot be obtained under the last preceding Section, the Police Officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested, and send immediate information to a Magistrate. If no warrant can be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person charged with an offence refusing to give his name and residence.

108. Any person who is known or suspected to have committed an offence for which a Police Officer is not authorized to arrest without a warrant, and who shall refuse on demand of a Police Officer to give his name and residence, or shall give a

name or residence which there is reason to believe to be false, may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

Party arrested to be taken immediately before the proper authority.

109. A Police Officer having made an arrest under this Chapter, shall take or send the person arrested without unnecessary delay before the Magistrate who has jurisdiction in the case, or before the Officer in charge of a Police Station.

Arrest for an offence committed in the presence of a Magistrate.

110. When any offence is committed in the presence of a Magistrate, such Magistrate may order any person to arrest the offender, and may thereupon commit him to custody, or if the offence is bailable, may admit him to bail.

Unlawful assembly to disperse on the order of a Magistrate, &c.

111. A Magistrate or Officer in charge of a Police Station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such unlawful assembly to disperse accordingly.

CHAPTER VII.

OF ESCAPE AND RE-TAKING.

112, 113. Person lawfully arrested escaping may be re-taken, and on fresh pursuit followed into another jurisdiction; and (113) for purpose of re-taking, Police to have same powers as for original arrest.

Persons arresting may re-take on escape and deal with the party arrested as on original taking.

112. If a person lawfully arrested under the provisions of this Act shall escape, or be rescued, it shall be lawful for the Police Officer or other person from whose custody the person so arrested shall have escaped, or have been rescued, to make fresh pursuit, and re-take him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such Police Officer or other person might have done on an original taking.

May adopt the same measures as on original taking.

113. In order to re-take any person, as provided in the last preceding Section, the Police Officer or other person making such fresh pursuit may adopt, the same measures as he might have adopted on the original taking.

If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be taken immediately to the Magistrate within whose jurisdiction it is found.

119. If the thing searched for be found within the local limits of a Supreme Court of Judicature, it shall be taken to the Chief Commissioner of Police, or to a Police Magistrate, who shall act in the manner prescribed in the last preceding Section.

Procedure in such cases within local limits of Supreme Court.

120. In any case in which it may appear necessary, a Magistrate may, by the warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made. When a Magistrate issues a warrant under this Section, he shall inform the Magistrate within whose jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any Supreme Court of Judicature, he shall inform the Chief Commissioner of Police of the issue of such warrant.

Magistrate may, when necessary, issue search warrant to be executed in the jurisdiction of another Magistrate.

121. It shall be competent to a Magistrate issuing a warrant for the search of any house or place out of the jurisdiction of the Magistrate of the District, to direct the warrant to the Magistrate of the District in which such house or place is situate, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on the warrant and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the warrant is to be executed within the local limits of any Supreme Court of Judicature, it shall be addressed to the Chief Commissioner of Police, or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in Sections 118 and 119 of this Act.

Magistrate may send search warrant by post to the Magistrate of another District.

Procedure to be observed by such Magistrate.

122. If the house or place to be searched is closed, it shall

Persons in charge of dwelling house, &c., to allow the search.

be the duty of any person residing in or in charge of such house or place, on demand of the Officer or other person executing the warrant, to allow such Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

123. A Police Officer, or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of the house or place, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking of zenanah or female apartment.

124. If the place ordered to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Officer or other person charged with the execution of the warrant shall give notice to such woman in such zenanah or apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw, and, after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer or other person may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Search of house, &c., to be made in the presence of witnesses.

125. The search of any house or place under this Chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but such persons shall not be required to attend the Court of the Magistrate as witnesses unless specially summoned by such Magistrate. The occupant of the house or place or some person in his behalf shall, in every instance be permitted to attend during the search.

Occupant of the place searched may attend.

Mode of searching females.

126. In any case in which it shall be necessary to cause a female to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Search of houses, &c., suspected to contain forged documents, &c.

127. If the Magistrate of the District or a Magistrate in charge of a division of a District, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government Stamps, or counterfeit coin, or ictruments or materials for counterfeiting coin or for forging, or that any forged documents or counterfeit stamps or false seals, or any counterfeit coin or instruments or materials used for counterfeiting coin or for forging, are kept or deposited in any house or other place, he may by his warrant authorise any Police Officer above the rank of a constable, peon, or burkundaz to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as shall be specified in the warrant, and to seize and take possession of any stolen property, documents, stamps, seals or coins therein found which he may reasonably suspect to be forged, stolen, false, or counterfeit, and also of any such instruments, and materials as aforesaid.

Magistrate may attend personally.

128. The Magistrate by whom a search warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also direct a search to be made in his presence of any house or place, for the search of which he is competent to issue a search warrant.

Inspection of weights and measures used in shops.

129. An Officer in charge of a Police Station may, without a warrant, enter any shop or premises within the limits of such Station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he shall have reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false. If such Police Officer shall find in such shop or premises any weights, measures, or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

130. The seizure by any Police Officer of property alleged or suspected to have been stolen, or of property seized by any Police Officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to the Magistrate of the District who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

Procedure by Police Officer upon seizure of stolen property found on an offender.

131. When any such property shall be unclaimed, the Magistrate of the District may detain the same and shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim to the property to appear and establish his claim thereto within six months from the date of such proclamation.

Procedure if such property be unclaimed.

132. If no person shall, within the period allowed, claim such property, and if the person in whose possession such property was found shall be unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District.

Procedure if no claimant appear within six months from date of proclamation.

CHAPTER IX.

PRELIMINARY ENQUIRY BY THE POLICE.

133—137. Police prohibited enquiring (unless ordered by Magistrate) of offences under Indian Penal Code, except Column 3 of Schedule of this Act, being offences for which arrest may be made without warrant; except (134) enquiries under special law, &c.; and (135) in regard to offences for which arrest may be made without warrant, Police are to give immediate notice of information to the Magistrate and proceed to the spot, &c., and Magistrate may depute Officer to enquire, &c.; but (136) in cases against known persons, &c., Police need not, unless necessary, proceed to the spot; nor (137) if no sufficient ground for enquiry appears, in which case report only to be made to Magistrate.

138. Imposes on all persons the duty of giving information of offences under Sections 382, 393,—399, 402, 435, 436, 449, 450, 456,—460 of Indian Penal Code.

139, 140. Police Officer of Station to reduce every complaint to writing, &c.; and (140) every order of Station Officer to Subordinate to arrest without warrant shall be made in writing.

[illegible] Police for purpose of arresting without warrant, may pursue offender beyond their own jurisdiction.

142, 143. Police Station Officer may search house, &c., within limits of Station, in person, or if he cannot he may depute Subordinate of his own, by written order to make search subject to rules in Sections 122—125 of this Act; or (143) may depute Subordinate of another Police Station.

144—150. Station Officer may require the attendance of witnesses before himself, and (145) examine orally and reduce their statement to writing, but it shall not be evidence; and (146) no inducement, by threat, promise, or otherwise, shall be held out to accused to make disclosure, &c.; nor (147) shall statement, &c., of accused to Police be recorded; nor (148) be used as evidence against him; nor (149) if made to any other person while in custody of Police, unless made before a Magistrate; but (150) Police may give evidence of statements, &c., of prisoner in connection with facts, &c.

151. Person arrested to be forwarded to Magistrate if case against him and offence be not bailable. Enquiries by Subordinate Officers to be reported, &c.

152, 153. Police Officer not to detain accused longer than 24 hours in any case without order, &c.; and (153) may discharge him on bail or recognizance, if no reasonable case against him.

154. Police Officer to keep diary of enquiries made by himself, &c., and [illegible] to be daily [illegible] District Superintendent, who may bring it to notice of Magistrate.

155. [illegible] Officer of enquiry to be in form to be prescribed by Government, and [illegible] to be sent to Magistrate with necessary articles seized.

156. [illegible] in Column 5 of Schedule of Act not to be bailable, if [illegible] probable; but all other offences to be bailable; and (157) excessive bail not to be demanded; and (158) prosecutor and witness to be bound by [illegible] to appear before Magistrate, and forwarded with report, duplicate of [illegible] to be furnished to prosecutor, &c.

159. Police not to subject any prosecutor or witness to unnecessary restraint, &c., nor to require other security than recognizance, but may forward them to Magistrate if they refuse to execute recognizance.

160. Station Officer to report to Magistrate all persons apprehended, and such persons are not to be discharged except on bail, &c.

161. Station Officer on receiving information of an unnatural or sudden death, to report same to Magistrate, and enquire into circumstances in presence of inhabitants, &c., and to report the proceedings; and in case of doubt as to cause of death, to forward body to Civil Surgeon.

162. Powers of Station Officer who is absent to be exercised by his next in rank or station, above peon or burkundaz.

Police Officers to make enquiry into certain offences only when directed to do so by Magistrate.

133. No Police Officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described

in Column 3 of the Schedule annexed to this Act, as offences for which a Police Officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police Officer or otherwise, to direct enquiry to be made by a Police Officer into any offence punishable under the Indian Penal Code or under any special or local law.

Saving of powers vested in Police Officers by any special or local law.

134. Nothing in the last preceding Section shall be held to interfere with the exercise of any powers which are vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Upon complaint preferred, Officer in charge of Police Station to proceed in person or depute a subordinate Officer to make enquiry.

135. Upon complaint or information being preferred to an Officer in charge of a Police Station of the commission within the limits of such Station of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without warrant, he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person, or shall depute one of his subordinate Officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender. Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an Officer exercising any of the powers of a Magistrate, to proceed to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

Except in cases not of a serious nature where local enquiry not necessary.

136. Provided that when any complaint is made against any person by name, and the case is not of a serious nature, it shall not be incumbent on the Officer in charge of a Police Station to proceed in person or to depute a subordinate Officer to make an enquiry on the spot, unless such local enquiry shall appear to be necessary.

If Officer in charge of Police Station see no sufficient ground for an enquiry.

137. If, on any complaint or information being preferred to an Officer in charge of a Police Station, it shall appear to such Officer that there is no sufficient ground for entering on an enquiry,

or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall abstain from proceeding in the case and shall report the substance of the complaint or information for the orders of the Magistrate.

All persons to give information of offences.

138. It shall be the duty of every person who is aware of the commission of any offence made punishable under Sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460 of the Indian Penal Code, to give information of the same to the nearest Police Officer, whenever he shall have reason to believe that, if such information be withheld, the person who committed the offence may not be brought to justice, or may have his escape facilitated.

Complaint, &c., to be in writing.

139. Every complaint or information preferred to an Officer in charge of a Police Station, shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by such Officer, in such forms as shall be prescribed by the Local Government.

Procedure when a Police Officer deputes another.

140. When any Officer in charge of a Police Station requires any Officer, subordinate to him, to make without a warrant an arrest which may lawfully be made by such Officer without a warrant, he shall deliver to the Police Officer required to make such arrest, an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

Police may pursue offenders into other jurisdictions.

141. It shall be lawful for a Police Officer to pursue, with a view to arrest, any person accused of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without a warrant, into the limits of another Police Officer, whether subordinate to the same Magistrate as himself or to the Magistrate of any other District, and whether such place be under the same Local Government or not.

Issue of search warrants by Officer in charge of Police Station.

142. Whenever an Officer in charge of a Police Station shall consider that the production of any thing is essential to the conduct of an enquiry into any offence which he is authorized to investigate, it shall be lawful for him to search or cause a search to be made for the same, in any house or place within the limits of

such Station. In such case, the Officer in charge of the Police Station shall, if practicable, conduct the search for such thing in person. If unable to conduct the search in person, and there is no other person competent to make the search present at the time, it shall be lawful for the Officer in charge of the Police Station to require any Officer subordinate to him to make the search, and he shall deliver to such Officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and it shall thereupon be lawful for such Subordinate Officer to search for such property in such house or place. The provisions of Sections 122, 123, 124, and 125 of this Act relating to search warrants, shall be applicable to a search made by or under the direction of an Officer in charge of a Police Station under this Section.

When one Officer of a Police Station may require another to issue a search warrant.

143. An Officer in charge of a Police Station may require an Officer in charge of another Police Station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which he might cause such search to be made within the limits of his own Station.

Witnesses to be summoned.

144. An Officer in charge of a Police Station may, by an order in writing, require the attendance before himself of any persons being within the limits of his Station, who from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under Section 135 of this Act, and such person shall be bound to obey such requisition.

Oral examination of witnesses by Police.

145. It shall be lawful for an Officer in charge of a Police Station or other Police Officer making an enquiry, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. Nothing in this Section shall preclude such Police Officer from reducing into writing any statement made by the person so examined. Provided that any statement so reduced into writing shall not be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

Proviso.

No inducement to be offered to accused person to confess.

146. No Police Officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

Police Officer not to record confession.

147. No Police Officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence. Provided that nothing in this Section shall preclude any Police Officer from reducing any such statement or admission or confession into writing for his own information or guidance.

Proviso.

Confession made to a Police Officer shall not be used as evidence.

148. No confession or admission of guilt made to a Police Officer shall be used as evidence against a person accused of any offence.

Confession made while the accused is in custody of the Police shall not be used as evidence.

149. No confession or admission of guilt made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be used as evidence against such person.

Police Officer may give in evidence so much of any statement or confession made by the accused as relates distinctly to a fact thereby discovered.

150. When any fact is deposed to by a Police Officer as discovered by him in consequence of information received from a person accused of any offence, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact discovered by it, may be received in evidence.

Enquiry by the Police.

151. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the Officer in charge of the Police Station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate. When any subordinate Police Officer has made any enquiry under this Chapter, he may be required by the Officer in charge of the Police Station to submit a report of such enquiry to him, or may do so without such instructions, and the Officer in charge of the Police Station shall then proceed as if he had made the enquiry himself.

152. No Police Officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable: such period in no case to exceed twenty-four hours. If the inquiry has not been completed within twenty-four hours, the Officer in charge of the Police Station shall, nevertheless, forward the accused to the Magistrate with a short despatch stating the offence for which the accused has been arrested, if there are grounds for believing that the accusation is well founded.

Accused not to be detained by the Police beyond 24 hours without special authority.

153. If it shall appear to the Officer in charge of the Police Station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate, he shall release the accused on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate.

Police, how to proceed in cases of deficient evidence.

154. A Police Officer making an enquiry under this Chapter, shall day by day enter his proceedings in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry, and shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such diary which he shall consider it to be important that such Magistrate shall know. The Magistrate of the District shall be entitled to call for and inspect such diary. In cases where there is no District Superintendent of Police, the Police Officer shall forward day by day a copy of the diary to the Magistrate of the District. Such diary shall not be evidence of the facts stated therein, except against the Police Officer who made it.

Daily record of proceeding.

155. The enquiry shall be completed without unnecessary delay, and as soon as it is completed the Police Officer making the enquiry shall forward to the Magistrate a report in such form as shall be prescribed by the Local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without

Report of Police Officer of what to consist.

any expression of opinion as to the guilt of the accused person, and shall also transmit any weapon or article which it may be necessary to produce before the Magistrate. The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance. If the accused person be detained in custody, he shall state the fact and the cause of his detention.

Bail.

156. A person accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him. But a person accused of any other offence shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive. Terms of security.

157. The bail to be taken under the last preceding Section shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, to answer the complaint.

Prosecutor and witnesses to execute recognizances to appear before the Magistrate.

158. Every prosecutor and witness, whose attendance before the Magistrate may be deemed necessary by the Police Officer making the enquiry, shall execute a recognizance in the form E given in the Appendix, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day, which shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate if he is to be forwarded in custody. The Officer in whose presence the recognizance is executed shall forward it with his report to the Magistrate, and shall deliver to the prosecutor and witnesses a duplicate of the despatch. The prosecutor or witnesses, unaccompanied by any Police Officer, shall be required to deliver in person such duplicate to the Magistrate.

Prosecutor and witnesses not to be subjected to restraint.

159. A Police Officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require them to give any other security for their appearance than their own

recognizances; but if any prosecutor or witness shall refuse to attend, or to execute the recognizance directed in the last preceding Section, it shall be competent to the Officer in charge of a Police Station to forward such prosecutor or witness under custody to the Magistrate, who may detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the hearing before the Magistrate.

Recusant prosecutor or witness may be forwarded in custody.

160. Officers in charge of Police Stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective Stations, whether such persons shall have been admitted to bail or otherwise; and no person who has been apprehended shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

Police to report all apprehensions.

161. It shall be the duty of the Officer in charge of a Police Station, on receiving notice or information of the unnatural or sudden death of any person, immediately to give intimation to the nearest Magistrate, and to proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, to make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted. The report shall be signed by such Police Officer and other persons or by so many of them as shall concur therein, and shall be forthwith forwarded to the Magistrate. When there may be any doubt regarding the cause of death, such Police Officer shall forward the body with a view to its being examined by the Civil Surgeon, if the state of the weather and distance will admit of its being so forwarded without risk of putrefaction on the road. In the Presidencies of Madras and Bombay, it shall be the duty of the Head of the Village in like manner to make the enquiry and report as aforesaid.

Police to make immediate enquiry and report on unnatural and sudden deaths.

162. The powers to be exercised by an Officer in charge of a Police Station under this Chapter, shall be exercised in the event of his absence or illness, by the Police Officer next in rank present

By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness.

at the Police Station, above the rank of a constable, peon, or burkundaz.

CHAPTER X.

OF CONTEMPTS AND DISOBEDIENCE OF ORDERS.

163, 164. For offences under Sections 175, 178, 179, 180, and 228 of Indian Penal Code, in the view of Civil, Criminal or Revenue Court, offender may be detained by Court, and fined not exceeding 200 Rs and imprisoned, &c., in default of payment; or for heavier punishment may be sent to Magistrate, or Justice of the Peace, as the case may be, to be proceeded against in ordinary manner; but (164) on submission of offender in specified case, punishment may be remitted.

165. Offences in Chapter X. of Indian Penal Code, &c., Sections 175, 178, 179, and 180, committed by European British subjects, are to be cognizable only by Justice of the Peace who shall exercise same powers as under 53 Geo. III., c. 155, s. 105, or commit for heavier punishment.

Procedure in certain cases of contempt.

163. When any such offence as is described in Sections 175, 178, 179, 180, or 228 of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding two hundred Rupees, or by imprisonment in the Civil gaol for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding two hundred Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or if sufficient bail be not tendered, shall cause the accused person to be forwarded under

custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53, George III., c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature. In no case tried under this Section shall any Magistrate adjudge imprisonment or a fine exceeding two hundred Rupees for any contempt committed in his own presence against his own Court.

Discharge of an offender on his submission.

164. When any person has been sentenced to punishment, or forwarded to a Magistrate or Justice of the Peace for trial, under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Procedure in all except certain cases when the offender is a European British subject.

165. When any such offence as is described in Chapter X. of the Indian Penal Code, except Sections 175, 178, 179, and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by the Statute 53, George III., c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender on conviction in the same manner as is provided in that

behalf in the said Statute. If such Magistrate shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

CHAPTER XI.

PROSECUTIONS IN CERTAIN CASES.

166. Offences under Chapter 6 of Indian Penal Code, except Section 127, to be cognizable only under Government prosecution.

167. Offences under Indian Penal Code of charges against Judge or public servant not removeable without sanction of Government, to be cognizable only when prosecuted by direction of Government, &c.

168. Contempt and other offence against public servant, under Chapter X. Indian Penal Code, not falling within Section 163 of the Act, not to be prosecuted without sanction of Court, &c.

169. Offences against public justice under Sections 193—196, 199, 200, 205—211, and 228 of Indian Penal Code, committed before Civil or Criminal Court, not to be prosecuted without sanction of such Court.

170. Offences relating to documents under Sections 463, 471, 475, and 476 of Indian Penal Code, given in evidence in Court, not to be prosecuted without sanction of Court, which may be given at any time.

171—174. For offences under Sections 168, 169, and 170, Court sanctioning prosecution may, after necessary preliminary inquiry, send case to proper Magistrate; but (172) Courts of Session may proceed for offences within its cognizance without sending case to Magistrate; and (173) for offences cognizable exclusively by Court of Session, Civil Court may send case directly to the Sessions; in which case (174) Civil Court shall frame a charge, &c., and transmit it with commitment.

175. Court of Session and Civil Court proceeding under last three Sections may bind over witnesses.

176. Cases for Court of Session sent to Magistrate with imperfect powers may be sent by him to Magistrate who is competent.

177, 178. Offence under Section 497 of Indian Penal Code to be prosecuted only by husband; and (178) under Section 498 only by husband or guardian.

Prosecutions for certain offences not to be instituted, but under authority of Government or of a duly empowered Officer.

166. A charge of an offence punishable under Chapter VI. of the Indian Penal Code, except Section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council, or the Local Government, or some Officer

empowered by the Governor General in Council, to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution against Judges, &c.

167. A charge of an offence punishable under the Indian Penal Code, of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be entertained against such Judge or public servant except with the sanction or under the direction of the Local Government, or of some Officer empowered by the Local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Local Government shall not think fit to limit or reserve.

Prosecution for certain offences under Chapter X. of the Penal Code not to be instituted, but with the sanction of the public servants concerned.

168. A charge of a contempt of the lawful authority of any Court or public servant, or of any other offence against a public servant as such, described in Chapter X. of the Indian Penal Code, not falling within Section 163 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the Court or public servant concerned, or, if such servant is an inferior ministerial servant, with the sanction or on the complaint of his official superior. The prohibition contained in this Section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

Prosecution for certain offences against public justice not to be instituted but with the sanction of the authority before which the offence was committed.

169. A charge of an offence against public justice, described in Sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Civil or Criminal Court before or against which the offence was committed, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Prosecution for certain offences relating to documents, not to be

170. A charge of an offence relating to documents described in Section 463, 471, 475, or 476 of the Indian Penal Code, when the document shall have

instituted but with the sanction of the Court in which such documents were given in evidence.

been given in evidence in any proceedings in any Courts, Civil or Criminal, shall not be entertained in any Criminal Court against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Mode of proceeding in cases mentioned in the last three preceding Sections.

171. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding Sections the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law, and the Court shall have power to send the accused person in custody or to take sufficient bail for his appearance before such Magistrate and may bind over any person to appear and give evidence on such investigation.

Power of Court of Session in respect of such offences committed before it.

172. It shall be competent to a Court of Session to charge a person for any such offence committed before it or under its own cognizance if the offence be triable by the Court of Session exclusively, and to commit or hold to bail, and to try such person upon its own charge. In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence which is vested in a Magistrate by this Act. Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Civil Courts empowered to complete Investigation and commit accused to Court of Session.

173. In any case triable by the Court of Sessions exclusively, it shall be lawful for any Court of Civil Judicature before which any such offence was committed, instead of sending the case for investigation to a Magistrate, to complete the investigation itself, and to commit or hold to bail the accused person to take his trial before the Court of Session.

Procedure by Civil Court in such cases.

174. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and

shall transmit the same with the order of commitment and the record of the case to the Magistrate of the District or other Officer exercising any of the powers of a Magistrate, and such Magistrate or other Officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Court of Session or Civil Court may exercise all the powers of a Magistrate as to binding over persons to give evidence.

175. Whenever any Court of Session or Civil Courts shall commit or hold to bail any person for trial under the last three preceding Sections, such Court may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

Magistrates not empowered to commit, to send the case to Magistrate competent to do so.

176. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, such Magistrate shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he may think proper.

Prosecution for adultery not to be instituted except by the husband.

177. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

178. A charge of an offence under Section 498 of the Indian Penal Code, shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

CHAPTER XII.

OF PRELIMINARY ENQUIRY BY THE MAGISTRATE IN CASES TRIABLE BY THE COURT OF SESSION.

179, 180. On complaint before Magistrate of person charged with offence triable exclusively by Court of Session, Magistrate may issue his warrant; or, if he thinks more fit, a summons; or (108) may, if he distrusts the complaint, dismiss the complaint or direct previous enquiry, and person making which, if not having the power of a Magistrate, &c., shall have the powers of Station Officer, except power to arrest.

181, 182. On issue of warrant, Magistrate may direct bail if tendered to be taken for appearance, in which case bail-bond to be forwarded to Magistrate; and (182) he may, if he see fit, dispense with personal attendance of defendant, and permit him to appear by Agent, and may cancel the privilege and require personal attendance.

183—185. If the accused absconds, &c., and cannot be found, Magistrate may, if satisfied of the intention to avoid the process, issue proclamation, &c., and may (184) at same time order attachment of moveable and immoveable property within the jurisdiction, which may be endorsed for attachment in another jurisdiction; and attachment of land paying revenue shall be made through the Collector, in other cases under order of Magistrate in manner specified, and the property shall be at disposal of Government on default of defendant to appear, but not be sold till after six months; and (185) on surrender, if within 2 years after the attachment, shall be restored, on proof of no intention to evade justice.

186—190. On receiving complaint, Magistrate shall ascertain names of witnesses and issue summons for them; which (187) shall be personally served or left with male adult member of family; or (188) may issue a warrant against witness if satisfied that he will not attend without; and (189) if witness absconds, proclamation for his attendance may be made, and on default of attendance attachment may be issued, &c., which (190) shall be released on his appearance, on payment of costs, and witness may be fined under Section 172 Indian Penal Code, and fine and costs realised through the attachment.

191, 192. On neglect, &c., of person summoned as witness to appear, warrant may be issued for his arrest; and (192) on refusal of witness to answer questions, Magistrate may commit him for seven days, &c.

193—195. Magistrate to take the evidence of prosecutor and witnesses; in the presence of the accused, &c., (194) who may cross-examine; and (195) the evidence shall be taken down in writing in the vernacular of the district by or before the Magistrate; and if it is in English, it shall be translated, &c.; and Magistrate not taking down the evidence himself shall make and sign a memorandum of its substance, or record why he has not done so.

196, 197. Local Government may direct evidence to be taken down by the Magistrate with his own hand in his own language or in the language of the district, except in case of inability to be recorded; and (197) Local Government to determine, in case of doubt, what is the ordinary language of the district.

198. Evidence shall be taken down ordinarily in narrative form, and not in question and answer, unless some special reason for it, and shall be read over to witness in presence of accused, and be corrected in case of objection, or the objection be minuted, and if taken down in language not of the witness, witness may require it to be interpreted to him.

199. Magistrate to make a memorandum of the facts of the evidence having been read over by witness, &c., and of other particulars.

200. Evidence, if in a language not understood by accused, to be interpreted to him, or his agent.

201—205. Magistrate may at any stage summon any person whose evidence he deems essential; and (202) may question the accused at any stage, but accused not bound to answer; and (203) no influence by promise, threat, or otherwise shall be used to induce accused to make disclosure, but accused may be examined upon his voluntary statement as if he were a witness; but (204) oath or affirmation shall not be administered to him; and (205) his whole examination, with every question and answer in full, shall be taken down, read over to him, and signed by the Magistrate, &c.

206. Person in Court may be detained to give evidence.

207, 208. Magistrate may summon witness for accused, and (208) provisions of Sections 187—192 shall be applicable.

209. Empowers Magistrate to tender pardon for offences in Column 7 of Schedule, under conditions; and take the evidence of the approver, as witness, under ordinary rules.

210, 211. Court of Session and Sudder Court, &c., may instruct the Magistrate to tender pardon, and (211) those Courts may afterwards commit approvers who have not fulfilled the conditions.

212, 213. Persons accused on probable grounds, of offences in Column 5 of Schedule specified as not bailable, shall not be admitted to bail, but may be pending the enquiry, if the subsequent evidence fails to raise a strong presumption; but (213) as to offences in Column 5 specified as bailable, accused may be bailed when brought up.

214—216. Recognizance of bail before Magistrate to be in discretionary amount and condition for appearance on the enquiry and at Session; and (215) fresh bail may be required if original ones fail; and (216) accused may be bailed at any time before conviction.

217. On completing the recognizances the accused shall be discharged.

218. Bail may require at any time to be discharged from their engagements, and accused may be called upon to find fresh bail or be committed.

219—221. Empowers Magistrate to proceed to enforce the penalty of the recognizance by immediate attachment and sale of property; and (220) to enforce penalty against sureties by notice to the sureties, and if cause to the contrary be not shown, by attachment and sale of property, and in default of goods by imprisonment, &c.; and (221) confers these powers on all Criminal Courts taking recognizances, &c.

222, 223. Every warrant of commitment shall be to some gaoler or other officer, &c., in form C; and (223) be lodged with the gaoler, &c.

224. Empowers the Magistrate for reasonable cause to defer examination of witnesses, &c., and remand accused for not exceeding 15 days, taking his recognizance with or without sureties at discretion, &c.

225. Directs Magistrate to discharge accused in case of insufficient grounds for commitment for trial, unless the case is one for proceeding under Chapter XIV.

226. Directs Magistrate on sufficient cause to send accused to Court of Session, for offence exclusively triable by Court of Session, or if a European British subject to Supreme Court.

227. Directs charge to be read to accused, and copy or translation to be furnished to him, and he shall be asked for list of witnesses whom he wishes to be summoned, &c., and the provisions of Sections 187—192 shall be applicable.

228. Entitles Magistrate, on specified ground, to enquire into reasons requiring any witness, and to refuse summons, unless expenses be deposited.

229. Directs that Magistrate's record, &c., be forwarded to Court of Session, or Supreme Court (as case may be) with translation into English.

230. Entitles accused to copies of the depositions at his expense.

231. Directs the Magistrate to issue order on Government Pleader to prosecute before Court of Session, unless he employs some other person.

232. Enjoins all prosecutors and witnesses to execute proper recognizances in Form E before Magistrate, to appear at Court of Session, or on refusal to execute, to detain them, &c.

Magistrate may issue his warrant.

179. When a complaint is made before a Magistrate that any person has committed, or is suspected to have committed, any of the offences specified in Column 7 of the Schedule annexed to this Act as triable exclusively by the Court of Session, or which in the opinion of such Magistrate ought to be tried by the Court of Session, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate to whom such complaint is made may, if he shall think fit, instead of issuing in the first instance his warrant to apprehend the person so complained against, issue his summons requiring him to appear to answer to such complaint.

May issue a summons instead of a warrant.

Postponement of issue of process.

180. If the Magistrate see cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he shall judge most proper, for the purpose of ascertaining the truth or falsehood of the complaint. If such enquiry is made by means of some person other than an Officer, exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers vested by this Act in an Officer in charge

May dismiss the complaint.

of a Police Station, except that he shall have no power to make an arrest. Nothing contained in this Section shall prevent the Magistrate from at once dismissing the complaint, if in his judgment there be no sufficient ground for proceeding with it.

Magistrate may direct bail to be taken.

181. It shall be in the discretion of the Magistrate in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if such person be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate to be named in the warrant on a specified day to answer the complaint, the Officer to whom the warrant is directed shall accept such bail, and shall release the person from custody. In the event of bail being given, the Officer shall forward the bail-bond to the Magistrate.

Magistrate may dispense with the personal attendance of the accused.

182. The Magistrate may, if he see sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf. But it shall be in the discretion of the Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

Proclamation for an absconding party.

183. If any person accused of an offence absconds or conceals himself, so that upon a warrant issued against him he cannot be found, the Magistrate shall, if satisfied that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some conspicuous place of the town or village in which such person usually resides, and shall be affixed on some conspicuous part of the ordinary place of abode of such person, or on some conspicuous place of such town or village. A copy of the proclamation shall also be affixed on some conspicuous part of the Court-house of the Magistrate.

Attachment of the property of absconding party.

184. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself. Such order shall not authorize the attachment of any property out of the jurisdiction

of the Magistrate by whom it is made, but it shall authorise the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed. The attachment under this Section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all other cases by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate shall deem proper. If the absent person shall not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six calendar months, unless such property is of a perishable nature, or it shall be considered by the Magistrate that the sale would be for the benefit of the owner.

Restoration of property declared to be forfeited.

185. When any person whose property shall have been declared to be at the disposal of Government under the last preceding Section shall, within two years after the attachment of the property, surrender himself, and shall upon trial before a competent Court, prove to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same shall have been sold, the proceeds thereof shall be restored to him.

Summons to a witness to attend and give evidence.

186. The Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such Magistrate to testify what they know concerning the complaint made against the accused person.

Form of summons to the witness, and mode of service thereof.

187. Every summons issued by a Magistrate under the last preceding Section, shall be served personally on the witness, or if the witness be not found, may be left for him with some adult male member of his family residing with him.

188. If the Magistrate shall see reason to believe that such witness will not attend to give evidence without being compelled to do so, it shall be lawful for such Magistrate, instead of issuing a summons, to issue his warrant in the first instance.

In what cases warrant in the first instance.

189. If the warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, the Magistrate may issue a proclamation requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode, and if such witness shall not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he shall deem reasonable, not being in excess of the amount of costs of attachment and of any fine to which such witness may be liable under the provisions of the following Section. Such order shall not authorise the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed.

If warrant cannot be served.

190. If the witness shall appear and satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the cost of the attachment as he shall deem fit. If such witness shall not appear, or appearing, shall fail to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, it shall be lawful for the Magistrate to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Magistrate may impose upon such

If on attachment witness appear and satisfy Magistrate, his property to be released from attachment.

If he do not appear or satisfy Magistrate, property to be sold.

witness under the provisions of Section 172 of the Indian Penal Code. If the witness shall pay to the Magistrate the costs and fine as aforesaid, the Magistrate shall order the property to be released from attachment.

If he do not obey the summons, then warrant.

191. If any person summoned to give evidence, shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the Magistrate, upon proof of the summons having been duly served, to issue a warrant, under his hand and seal, to bring such person before him to testify as aforesaid.

Refusing to answer, may be committed to custody.

192. If any person summoned or brought before a Magistrate, shall refuse to answer such questions as shall be put to him, without offering any just excuse for such refusal, the Magistrate may, by warrant, under his hand and seal, commit the person refusing to custody for any term not exceeding seven days, unless he shall, in the meantime, consent to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of the complainant and witnesses for the prosecution.

193. The Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

To be in the presence of the accused who may cross-examine.

194. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent when his personal attendance is dispensed with and he appears by agent. The accused or his agent shall be permitted to cross-examine the complainant and his witnesses.

Mode and language in which the evidence is to be recorded.

195. The evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate. When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same in the

language in ordinary use in the District in which the Court is held shall form part of the record. In cases in which the evidence is not taken down in writing by the Magistrate, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Local Government may direct the evidence to be recorded in the vernacular language of the Magistrate.

196. It shall be competent to the Local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended under the provisions of Section 445 of this Act, the evidence of witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation, in open Court. The evidence so taken down shall be signed by the Magistrate, and form part of the record. Provided that if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Magistrate may be directed by the Local Government to take down the evidence in the English language or in the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

Proviso.

Local Government to decide what is the language in ordinary use in any District.

197. If any question shall arise as to what is the language in ordinary use in any District in which a Court is held, that question shall, for the purposes of this Act, be determined by the Local Government.

How the evidence is to be recorded.

198. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any person who is a prosecutor, or a person accused, or his counsel or agent, shall require it. When the

evidence is completed, it shall be read over to the witness in the presence of the accused person if in attendance, or of his agent when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected. If the witness shall deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence, as taken down, to be interpreted to him in the language in which it was given, or in a language which he understands.

Memorandum to be attached to the evidence.

199. A memorandum, to be signed by the Magistrate, shall be attached to the evidence of each witness, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and if the fact is so, that the witness acknowledged such evidence to be correct. When the evidence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in the presence and hearing of the Magistrate, and under his personal direction and superintendence.

In what cases evidence to be interpreted to the accused or his agent.

200. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, in all cases where the accused is present in person. If the accused person appears by agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such agent in that language.

Power of Magistrate at any stage to summon and examine any person.

201. It shall be in the discretion of the Magistrate at any stage of the proceedings, to summon and examine any person, whose evidence he may consider essential to the enquiry.

Examination of defendant.

202. It shall be in the discretion of the Magistrate, from time to time, at any stage of the enquiry, to examine the accused person, and to put such questions

to him as he may consider necessary. It shall be in the option of the accused person to answer such questions.

No influence to be used to induce disclosures.

203. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge; but if the accused person shall, of his own accord, propose to confess the commission by him of the offence of which he is accused, the Magistrate shall require him to give an account of the facts and circumstances in detail, and shall examine him thereupon in the same manner as if he were a witness.

Magistrate, how to proceed in case of confession.

Accused person not to be sworn.

204. No oath or affirmation shall be administered to the accused person.

Examination of the accused how to be recorded

205. The examination of the accused person, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers; and when the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify, under his own hand, that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Any person attending may be detained for any offence committed by him.

206. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Discretionary with the Magistrate to take evidence for the defence.

207. It shall be at the discretion of the Magistrate to summon any witness who may be offered in behalf of the accused person to answer or disprove the evidence against him.

Witnesses for the defence.

208. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act, shall be applicable to witnesses named in support of the defence.

Magistrate may tender a pardon in certain cases.

209. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, recording his reason for so doing, to tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in Column 7 of the Schedule annexed to this Act as triable by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof. If any person shall accept a tender of pardon under this Section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses. Such person, if not on bail, may, if the Magistrate or other Officer as aforesaid shall think proper, be detained in custody pending the termination of the trial.

When Sudder Court or Court of Session may direct a tender of pardon.

210. It shall be competent to a Court of Session at the time of trial, and also to the Sudder Court as a Court of reference, in cases tried with the aid of Assessors, to instruct the Magistrate in like manner to tender a pardon to one or more persons supposed to have been directly or indirectly concerned in or privy to any such offence, with the view of obtaining his or their evidence on the trial.

When Sudder Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

211. If it shall appear to a Court of Session at the time of trial or to the Sudder Court as a Court of reference, that any person who shall have accepted an offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing any thing essential, or by giving false evidence or information, it shall be competent to such Court to direct the commitment of such person for trial for the offence in respect of which the pardon was tendered.

Bail not to be taken for certain offences.

212. When any person shall appear or be brought before a Magistrate, accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been

guilty of the crime imputed to him; but if the evidence given in support of the accusation shall, in the opinion of the Magistrate, not be such as to raise a strong presumption of the guilt of the accused person and to require his committal, or such evidence shall be adduced on behalf of the accused person as shall, in the opinion of the Magistrate, weaken the presumption of his guilt, but there shall appear to the Magistrate, in either of such cases, to be sufficient ground for further enquiry into his guilt, the accused person shall be admitted to bail pending such enquiry.

When may be taken.

213. When any person shall appear or be brought before a Magistrate, accused of any of the offences specified in Column 5 of the Schedule annexed to this Act, as bailable, he shall be admitted to bail.

When bail shall be taken.

214. When a Magistrate shall admit to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate may think sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and, if required, shall appear when called upon at the Court of Session to answer the charge.

Recognizance of accused and sureties.

215 If through mistake or fraud, insufficient bail has been taken, or if the securities become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and, in default, may be committed to prison.

Insufficient bail.

216. If the accused person cannot find sureties when called, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Bail may be taken at any time before conviction.

217. After the recognizances shall have been duly entered into, the Magistrate, in case the accused person shall have appeared voluntarily, or shall be in the custody of some Officer, shall thereupon discharge him; and in case he shall be in some prison or other place of confinement, shall issue a warrant of discharge to the gaoler or other person having him in his custody, and such gaoler or other person shall thereupon liberate him.

Discharge on bail.

218. The sureties for an accused person may, at any time apply to the Magistrate to be discharged from their engagements. On such an application being made, the Magistrate shall issue his warrant, directing that such person be brought before him. On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and in default, may order him to be committed to prison.

Discharge of sureties.

219. Whenever by reason of default of appearance of the person executing the personal recognizance, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

Proceedings to compel payment of penalty by accused.

220. Whenever by reason of default of appearance by the person bailed, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid; and, if no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to such surety or sureties which may be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil gaol, during a period not exceeding six months.

Proceedings to compel payment of penalty by sureties.

221. The powers given by the last two preceding Sections may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the

In what cases the powers given by the last two Sections may be exercised.

non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail.

Warrant of commitment how to be directed &c.

222. Every warrant for the commitment of a person to custody shall be directed to some Gaoler, or other Officer or person having authority to receive and keep prisoners, and shall be in the form C given in the appendix, or to the like effect.

With whom to be lodged.

223. Every warrant of commitment shall be lodged with the gaoler, if he be in the gaol; and if he be not in the gaol, with his deputy. If the gaoler has no deputy, the warrant may be lodged with any Officer of the gaol then being in the gaol.

When Magistrate may adjourn the enquiry.

224. If from the absence of a witness or from any other reasonable cause, it shall become necessary or advisable to defer the examination, or further examination, of witnesses, it shall be lawful for the Magistrate by a written order, from time to time, to adjourn the enquiry, and to remand the accused person for such time as shall be deemed reasonable, not exceeding fifteen days; provided that, instead of detaining the accused person in custody during the period for which he shall be so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

When accused person to be discharged.

225. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapter XIV. of this Act.

When defendant to be committed for trial.

226. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. If the Magistrate is a

Justice of the Peace and the accused person is a European British subject, he shall be sent for trial before the Supreme Court of Judicature.

Copy of charge to be furnished to accused person.

227. As soon as the charge on which the accused person is to be tried, has been prepared as hereinafter directed, it shall be read to him, and a copy or translation of it shall be furnish to him if he require it. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court. It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time. The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 187, 188, 189, 190, 191, and 192, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused person in the list above mentioned.

Witnesses for the defence on the trial.

Magistrate may refuse to summon unnecessary witness, unless a deposit be made to defray the expenses of such witness.

228. If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness.

Record to be forwarded to the Superior Court.

229. When a commitment is made to the Court of Session, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case. When a commitment is made to the Supreme Court of Judicature, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record shall not be in the English language, a translation thereof in the English language shall be forwarded therewith.

230. When the preliminary enquiry is concluded, the accused

Copies of depositions to be furnished to accused.

person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions, which shall be made at his expense.

When commitment is made, Magistrate to give notice to Government Pleader, &c.

231. When the accused person is committed to take his trial before the Court of Session, the Magistrate shall issue an order to the Government Pleader or other Officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge. Nothing in this Section shall preclude the Magistrate, if he shall think fit, from appointing a person other than such Government Pleader or Officer to conduct the prosecution.

Recognizances of prosecutors and witnesses.

232. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form E given in the Appendix, or to the like effect, to be in attendance when called upon at the Court of Session, to prosecute or to give evidence, as the case may be. If any prosecutor or witness shall refuse to attend before the Court of Session, or to execute the recognizance above directed, it shall be competent to the Magistrate to detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall forward such prosecutor or witness under custody to the Court of Session.

CHAPTER XIII.

OF THE CHARGE.

233—237. Magistrate sending accused to Court of Session shall also send a charge under his hand and seal with specified particulars; (234) describing the offence in the language of the Indian Penal Code; without (235) negative averments to exclude general exceptions, (236) of which exceptions, however, defendant may take advantage by proof on his part; but (237) only general and not other exceptions are impliedly negatived in the charge.

238. The charge may contain several heads.

239. Charge when only with one head shall be like Forms No. 1 on Section 121; No. 2, on Section 124; No. 3, on Section 161; No. 4, on Section 304;

No. 5, on Section 306; No. 6, on Section 325; No. 7, on Section 392; No. 8, on Section 395; and in similar Form under other Sections.

240—242. Directs how charge shall be framed when the one case has two or more criminal aspects; and (241) how it shall be framed when the case shows the commission of two or more offences falling within the same Section of the Indian Penal Code; and (242) how it shall be framed when it appears doubtful within what Section of the Indian Penal Code it falls.

243. Charge containing more heads than one shall be in forms given on Sections 241, 242, and on Sections 302, 304, and on Sections 379, 382, and in similar Forms on other Sections.

244—247. Empowers Court at trial to amend or alter the charge, and proceed with the trial; or (245 and 246) postpone the trial if amendment is likely to prejudice the accused or to require an alteration in his defence; and (247) In all cases of amendment accused may have witness recalled, &c.

What the charge is to contain.

233. When the Magistrate has determined to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct the accused person to be tried by such Court on such charge. A copy of this instrument shall be forwarded with the record of the preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the Public Prosecutor or to the Officer appointed to conduct the prosecution.

How the offence is to be described.

234. The charge shall describe the imputed offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the Section under which such offence is punishable.

Absence of General Exceptions under the Penal Code to be assumed.

235. It shall not be necessary to allege in the charge any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the General Exceptions contained in Chapter IV. of the Indian Penal Code, but every charge shall be understood to assume the absence of all such circumstances.

Evidence as to General Exception.

236. It shall not be necessary at the trial, on the part of the prosecutor, to prove the absence of such circumstances in the first instance; but the accused person shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

237. When the Section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exception so contained in the Section, without a distinct denial of the existence of such circumstances.

Special ground of exception from absence of circumstances not to be assumed.

238. The charge may contain one or more heads.

Charge may contain one or more heads.

239. When a charge contains one head only, the form shall be as follows, or to the same effect:—

Heads of charge.

(*a.*) I, A [*name and office of Magistrate*], *&c.*, declare that there is hereby made against Z the charge—

(*b.*) That he, on or about the day of at , waged war against the Queen, and that he has thereby committed an offence punishable under Section 121 of the Indian Penal Code, (*c.*) and within the cognizance of the Court of Session.

On Section 121.

(*d.*) And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

To be substituted for (*b.*)

2. That he, on or about the day of at , with the intention of inducing the Honorable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 124.

3. That he, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for his, the said Z's forbearing to do an official act, and that he has thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 161.

4. That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and

On Section 304.

that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 306.

5. That he, on or about the day of at , abetted the commission of suicide by A B, a person in a state of intoxication, and that he has thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 325.

6. That he, on or about the day of at , voluntarily caused grievous hurt to , and that he has thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 392.

7. That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 395.

8. That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other Sections of the Indian Penal Code.

Charges in cases falling within two or more Sections of the Penal Code.

240. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more Sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such Sections.

Two or more offences punishable under the same Section.

241. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same Section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

Cases of doubt as to the Section which is applicable, or the offence which may be proved.

242. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one or two or more Sections of the Indian Penal Code, but it is doubtful which of such Sections will be applicable or show the commission of one of two or more offences falling within the same Section of the said Code, but it is doubtful which of such offences will be proved, the charge shall contain two or more heads, framed respectively under each of such Sections, or charging respectively each of such offences accordingly.

Forms of charge of more than one head.

243. When a charge contains more heads than one, the form shall be as follows, or to the same effect:—

I, A [*name and office of Magistrate or other Officer as aforesaid, &c.,*] declare that there is hereby made against Z the charge—

On Sections 241 and 242.

First.—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A B, as genuine, and that he has thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person, by name A B, to receive it as genuine, and that he has thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of Magistrate.*]

On Sections 302 and 304.

First.—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under Section

304 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Sections 382 and 379.

First.—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That he, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That he, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of his escape after the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That he, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other Sections of the Indian Penal Code.

Amendment of charge.

244. It shall be competent to any Court before which a trial is held, at any stage of the trial, to amend or alter the charge.

When the trial may be immediately proceeded with after amendment.

245. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

246. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When a new trial may be ordered or trial suspended.

247. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

Defendant may recall and examine witnesses already examined.

CHAPTER XIV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A WARRANT ON COMPLAINT MAY ISSUE.

248—250. In case of complaint triable before the Magistrate and on which more than 6 months' imprisonment may be given, Magistrate may issue warrant or summons, and (249) Procedure of Chapter 12 of this Code shall apply, and Magistrate shall record any material remark on demeanour of witness; and then (250) prepare a charge in same manner as is prescribed in Chapter 13, substituting specified word, denoting the case as within his own cognizance.

251—255. The charge shall be read over to accused, and he be asked if he is guilty or has any defence; and (252) to enter upon his defence and produce his witnesses, &c.; and (253) Magistrate shall summon his witnesses, and may adjourn the trial; and (254) Sections 187—192 shall apply to his witnesses; and (255) Magistrate shall acquit or convict and pass sentence.

256. If on the trial the Magistrate discovers the case is not within his cognizance, or that it ought to be tried by Court of Session, Magistrate may stop further proceedings, and proceed as under Chapter 12.

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or his suspected to have committed, any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a

Cases in which Magistrate may issue a warrant.

period exceeding six months, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate to whom such complaint shall be made may for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Summons instead of warrant.

249. The provisions of Chapter XII. relating to the issuing of process for causing the attendance of the accused person, the taking of bail, the summoning and enforcing the attendance of witnesses, the examination of parties and witnesses, the mode of recording evidence, correction, attestation, and interpretation thereof, and the adjournment of a case, shall be applicable to cases tried under this Chapter. On completing the examination of a witness under this Section, the Magistrate, in addition to the memorandum required by Chapter XII. shall record such remarks as he may think material sespecting the demeanour of any witness while under examination.

Issue of process, &c.

250. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate shall consider necessary, have been taken, the Magistrate, if he find that no offence has been proved against the accused person, shall discharge him. If the Magistrate find that an offence is apparently proved against the accused person, which falls within the definition in a certain Section of the Indian Penal Code, or within one or other of the definitions in several Sections of the said Code, he shall prepare in writing a charge against the accused person in the manner prescribed in Chapter XIII. of this Act, all the provisions of which shall be applicable to charges prepared under this Section. In charges prepared under this Section the words "within my cognizance," shall be substituted for the words "within the cognizance of the Court of Session" at the end of the charge, and the words "by the said Court" omitted in the order.

Charge.

251. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Plea.

252. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

Plea of claim to be filed.

253. The Magistrate shall summon any witness and examine any evidence that may be offered in behalf of the accused person to answer or disprove the evidence against him, and may for this purpose at his discretion adjourn the trial from time to time as may be necessary.

Evidence for the defence.

254. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Witnesses for the defence.

255. If the Magistrate shall find the accused person not guilty, he shall record judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Acquittal or conviction.

256. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or which, in the opinion of such Magistrate, ought to be tried by the Court of Session, the Magistrate shall stop further proceedings under this Chapter, and shall proceed in accordance with Chapter XII. of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

How the Magistrate is to proceed when after commencement of trial he finds the case beyond his jurisdiction.

CHAPTER XV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.

257—260. On complaint before Magistrate of offence or suspected offence triable by him and subject to not exceeding 6 months' imprisonment, Magistrate may issue summons, &c., or warrant if accused is likely to abscond; and (258) on appearance, Magistrate shall admit accused to bail, or take his personal recognizance; or in case he cannot find bail, commit him, and (259) shall dismiss the charge if on day appointed complainant does not appear, unless

Magistrate sees reason to adjourn the case; and (260) on default of defendant's appearance, and proof of service of summons, &c., Magistrate may issue a warrant.

261—264. Magistrate may, on sufficient cause, excuse personal appearance, and permit agent to appear, and at any time require attendance of principal; and (262) may issue summonses for witnesses on either side, and (263) may summons any one whose evidence he may desire, and (264) Sections 187—192 shall be applicable according to Sections 262, 263.

265—268. On day of trial, the complaint shall be stated to accused, who shall be convicted, unless he show cause to the contrary; but (266) if he does not admit the complaint, Magistrate shall hear the witnesses on both sides and the defendants; and (277) take down the substance of each witness' evidence, or record why he does not, and shall record any material remarks respecting demeanour of witness, &c, or (268) Magistrate may take down the evidence in full, as provided for in Section 195 or Section 196, subject to rules of Sections 199 and 200.

269. Empowers Magistrate to adjourn hearing, and on default of appearance of complainant to dismiss complaint, and of defendant to appear, to issue warrant.

270. For complaint dismissed as frivolous or vexatious, Magistrate may order payment of amends, not exceeding Rs. 50, recoverable by distress and sale, and in default of realization by imprisonment in Civil Goal for not exceeding 30 days.

271. Empowers Magistrate to allow complainant to withdraw his complaint, which shall not afterwards be entertained again.

272. Magistrate to record sentence whether of acquittal or conviction, and, if latter, pass sentence.

Summons shall issue.

257. Whenever a complaint is made before a Magistrate having jurisdiction in the case that any person has committed or is suspected to have committed any offence triable by such Magistrate and punishable under the Indian Penal Code with imprisonment for a period not exceeding six months, it shall be lawful for such Magistrate to issue his summons directed to such person, stating shortly the matter of such complaint, and requiring him to appear at a certain time and place before such Magistrate to answer to the complaint. Provided that, if the Magistrate shall be satisfied or have reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such accused person.

When warrant may issue.

258. If upon the day appointed, the accused person shall

Defendant may be admitted to bail or to be at large upon personal recognizance.

appear voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit the accused person to bail, or allow him to be at large upon his personal recognizance, as the Magistrate may direct. If the accused person cannot give bail when required to do so, he shall be committed to custody.

Non-appearance of complainant.

259. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear the Magistrate shall dismiss the complaint; unless for some reason he shall think proper to adjourn the hearing of the same to some other day upon such terms as he shall think fit.

If summons be not obeyed, warrant.

260. If the person served with a summons shall not appear before the Magistrate at the time mentioned in such summons, and the Magistrate shall be satisfied that such summons was duly served in what shall be deemed by the Magistrate to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the Magistrate that after due diligence the summons could not be served according to the provisions of this Act, the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

261. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person complained against, and permit him to appear by an agent duly authorized to act in his behalf. Provided that it shall be at the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of such person. When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the agent if the accused person has been permitted to appear by agent, or the accused person may be required to attend to hear such sentence.

Summons to witness to attend and give evidence.

262. If it appear to the Magistrate that any person is likely to give material evidence on behalf of the complainant or the accused person, and that

such person will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such complaint, the Magistrate shall issue his summons to such person under his signature and seal, requiring him to appear at a time and place mentioned in the summons, to testify what he knows concerning the matter of the complaint.

Magistrate may summon necessary evidence.

263. It shall be at the discretion of the Magistrate, at any stage of the trial, to summon and examine any witness whose evidence he may consider essential to the just decision of the case. The Magistrate may also examine as a witness any person in attendance, although not summoned as a witness.

Application of previous rules.

264. The provisions of Sections 187, 188, 189, 190, 191, and 192 shall be applicable to witnesses summoned according to the provisions of Sections 262 and 263 of this Act.

Admission by accused of truth of complaint.

265. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted. If the accused person admit the truth of the complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Proceeding when no such admission is made.

266. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he may produce in support of his complaint, and also to hear the accused person and such witnesses as he shall produce in his defence.

How the evidence is to be recorded.

267. The Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds. The memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and

such memorandum shall form part of the record. The Magistrate shall record such remarks as he shall think material respecting the demeanour of any witness whilst under examination.

Manner of recording evidence in certain cases.

268. In any case in which the Magistrate shall consider it necessary, it shall be competent to him, instead of taking down merely the substance of the evidence of any witness, to take down the evidence of the witness in the manner provided in Section 195 or in the manner provided by Section 196 of this Act, if within the jurisdiction of such Magistrate the Local Government shall have made an order as provided in that Section. In any such case the provisions of Sections 199 and 200 shall be applicable to the evidence so taken.

Adjournment.

269. Before or during the hearing of any complaint, it shall be lawful for the Magistrate to adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties, and if on the day to which such hearing or such further hearing shall have been so adjourned, the accused person shall not appear, the Magistrate may issue his warrant for the arrest of such person, and if the complainant shall not appear, the Magistrate may dismiss the complaint.

Magistrate may award amends in cases of frivolous and vexatious complaints.

270. In any case where the Magistrate shall dismiss the complaint as frivolous and vexatious, it shall be lawful for him, in his discretion, by his order of dismissal, to award that the complainant shall pay to the accused person such amends, not exceeding Fifty Rupees, as to such Magistrate shall seem just and reasonable. The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment in the Civil Gaol, for any time not exceeding thirty days, unless such amends shall be sooner paid.

Magistrate may permit withdrawal of the complaint.

271. If a complainant at any time before a final order is passed in any case under this Chapter, shall satisfy the Magistrate that there are sufficient grounds for permitting him to withdraw his

complaint, the Magistrate may permit such complainant to withdraw such complaint. A complaint withdrawn under this Section shall not again be entertained.

Acquittal or conviction.

272. If the Magistrate, in any case tried under this Chapter, shall find the accused person not guilty, he shall record a judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

CHAPTER XVI.

OF ENQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.

273—275. Criminal cases brought before Magistrates, &c., either directly or on report, &c., may be by him referred to any Magistrate subordinate to him, for enquiry or trial, or with a view to commitment to Session or Supreme Court, if legally competent, &c.; and (274) the order of reference shall state if the case come forward on report, and all process shall be directed for Subordinate Court; and (275) Subordinate Magistrate shall follow rules prescribed for Magistrates on such cases; and Police shall obey orders of Subordinate Magistrate.

276—278. Subordinate Magistrate, if presumption of guilt arises on the evidence, and the case is above his cognizance either to try or commit for Sessions, shall submit it to Magistrate, for trial or commitment to the Sessions, and in such cases shall make some enquiry as if no previous one had been made, and (277) if Subordinate Magistrate has jurisdiction to try, and the case appears to him to require a heavier punishment than he can give, he shall record his finding and pass the case on to the Magistrate for sentence, who may re-examine, &c., witnesses; but (278) nothing in this Section (277) shall be held to prevent Subordinate Magistrate from holding from committing directly to the Session.

Reference of cases to Subordinate Magistrate.

273. Criminal cases brought before the Magistrate of the District or a Magistrate in charge of a Division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him. The reference shall be for enquiry or for trial if the offence be triable by such Subordinate Magistrate, or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session, or with a view

to commitment to the Supreme Court of Judicature if such Subordinate Magistrate is competent to commit to such Supreme Court. Provided that nothing in this Section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police Officer (in cases in which the Subordinate Magistrate is authorised to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Proviso.

274. When a criminal case is referred under this Chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Cases, how to be referred.

275. In the enquiry into or trial of cases under this Chapter, the subordinate Magistrates shall be guided by the rules prescribed for the guidance of the Magistrate of the District in similar cases; and Police Officers and others shall be bound to obey all orders and processes issued in such cases in like manner as if such orders or processes had been issued by the Magistrate of the District.

Subordinate Magistrates to follow the same rules of procedure as the Magistrate.

276. If, in the course of a trial before a Subordinate Magistrate, the evidence shall appear to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial before the Court of Session, he shall stay proceedings and shall submit the case to the Magistrate to whom he is subordinate. The Magistrate to whom the case is submitted shall either try the case himself or refer it to any Officer subordinate to him having jurisdiction, or he may commit the accused person for trial before the Court of Session. In any such case, such Magistrate or other Officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

How the Subordinate Magistrate is to proceed in cases beyond his jurisdiction.

In what cases Subordinate Magistrate shall not pass sentence, but may refer case to the Magistrate.

277. If in any case tried by a Subordinate Magistrate having jurisdiction, in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case, as he may deem proper and as shall be according to law.

How the Magistrate is to proceed in such cases.

In any such case, the Magistrate to whom the proceedings are submitted, may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Subordinate Magistrate, if empowered to do so, may, instead of convicting the accused, commit him for trial before the Court of Session.

278. Nothing in the last preceding Section shall be held to prevent the Subordinate Magistrate in any such case as is therein described, if such Magistrate is empowered to hold the preliminary enquiry into cases triable by the Court of Session, and to commit persons to take their trial before such Court, from committing the accused person for trial before the Court of Session instead of finding him guilty. If the Subordinate Magistrate shall be of opinion that the accused person should be committed for trial before the Court of Session, he shall proceed in accordance with Chapter XII of this Act, for conducting the preliminary enquiry in cases triable by the Court of Session.

Mode of procedure in such cases.

CHAPTER XVII.

PLACE WHERE PRELIMINARY INVESTIGATIONS AND TRIALS HELD, AN OPEN COURT.

279. Directs that Court of Magistrate when engaged in preliminary investigation into case triable in Supreme Court, shall generally be an open Court, &c.; but gives power to Court in any particular case to shut the Court except to those specially permitted to be present.

Place where investigation made, an open Court.

279. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into

any case triable by a Court of Session or Supreme Court of Judicature, or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them; but it shall be lawful for any such Court, if it shall think fit, to order that during the investigation into any particular case triable by a Court of Session or by a Supreme Court of Judicature, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

CHAPTER XVIII.

OF RECOGNIZANCE AND SECURITY TO KEEP THE PEACE.

280, 281. Person charged with rioting and other specified offences against the peace, if convicted before Court of Session or Magistrate, &c., may require of the defendant recognizance in a sum proportionate to his means, to keep the peace for not exceeding one year if required by Magistrate, not exceeding 3 years if by Court of Session; and Officer below Magistrate may refer defendant to Magistrate if he thinks such recognizance should be given; and (281) besides the personal recognizance of the defendant, sureties may be required, under the same limitations as to term.

282—284. Empowers Magistrate, &c., on credible information of probability of breach of the peace, whether by European British subject or other, to summon party to show cause why he should not give security; which summons (283) shall set forth the information, amount of security, &c., required, and (284) security bond shall be in form D of Appendix, &c.

285. On default of appearance on summons (if duly served) warrant may be issued, or in specified case arrest may be made in first instance.

286. Magistrate may dispense with personal attendance of party and permit appearance by agent.

287—290. Empowers Magistrate in his discretion to discharge party without binding him over; but (288) if being required to give security he does not, he may be committed by Magistrate (289) for not more than a year, within which he may be released on giving the security; but (290) if Magistrate is of opinion the term should be extended, he may report to the Court of Session, which on enquiry, may extend the term another year.

291. Empowers Magistrate to discharge all securities, and persons under bond or in custody under the preceding Sections.

292. Surety may at any time get discharged on application to Magistrate, who may take fresh sureties.

293, 294. Magistrate, on forfeiture of bond, &c., may call on the principal to show cause why he should not pay, and on default to pay or show sufficient cause, may proceed to enforce payment by distress and sale, &c., and if not realized may commit to Civil gaol for the debt, for not exceeding six months; and (294) may in like manner proceed to enforce the bond against the sureties.

Personal recognizance to keep the peace in cases of conviction.

280. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, shall be convicted of such charge before any Court of Session or the Magistrate of the District or other Officer exercising the powers of a Magistrate; and the Court or Magistrate or other Officer as aforesaid, by which the accused person is convicted, or the Court or Magistrate or other Officer as aforesaid, by which the final sentence or order in the case shall be passed, shall be of opinion that it is just and necessary to require a penal recognizance for keeping the peace, from the person so convicted, it shall be lawful to such Court or Magistrate or other Officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, in addition, to direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the sentence or final order be passed by a Court of Session. When any accused person shall be convicted of any offence specified in this Section by an Officer not exercising the powers of a Magistrate, such Officer, if he consider it just and necessary to require a penal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other Officer exercising the powers of a Magistrate to whom such Officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Security to keep the Peace.

281. In cases in which it may appear necessary to require security for keeping the peace, in addition to the personal recognizance of the party so

convicted, it shall also be lawful to the Court or Magistrate or other Officer as aforesaid, empowered to require a penal recognizance under the last preceding Section, to require security in addition thereto, and to fix the amount of the security-bond to be executed by the surety or sureties; with a provision that if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year if the order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the order be passed by the Sudder Court or by a Court of Session.

Summons to any person to show cause why he should not enter into a bond to keep the peace.

282. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, whenever he shall receive credible information that any person, whether a European British subject or not, is likely to commit a breach of the Peace, or to do any act that may probably occasion a breach of the peace, to summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace with or without sureties as such Magistrate shall think fit.

Form of Summons.

283. The summons shall set forth the substance of the information, the amount of the bond and the term for which it is to be in force, and if security is called for, the number of sureties required, and the amount in which they are to be bound respectively. Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

Penalty.

284. The penalty of such bond, which shall be in the form D given in the Appendix, or to the like effect, shall be fixed with a due regard to the circumstances of the case and the means of the party, and the amount in which the sureties shall be bound shall not exceed the said penalty.

Warrant of arrest.

285. If the person summoned shall not attend on the day appointed, the Magistrate or other Officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest. Provided that whenever it shall appear to the Magistrate or other Officer as

aforesaid, upon the report of a Police Officer or upon other credible information, the substance of which report or information shall be recorded, that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, it shall be lawful for the Magistrate at any time to issue a warrant for the arrest of such person.

Magistrate may dispense with personal attendance of party informed against.

286. The Magistrate or other Officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against, and permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of party informed against.

287. If on the appearance of the person, or of his agent if he is permitted to appear by agent, the Magistrate or other Officer as aforesaid shall not be satisfied that there is occasion to bind such person to keep the peace, he shall direct his discharge.

Consequence of not complying with order of Magistrate to enter into a bond.

288. If the Magistrate or other Officer as aforesaid shall be satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if the person shall fail to comply with the order, it shall be lawful for the Magistrate or other Officer as aforesaid to commit him to gaol.

Limit for confinement.

289. The period for which the Magistrate or other officer as aforesaid may bind a person to keep the peace with or without security, shall not exceed one year. When a person shall be committed to gaol under the last preceding Section, he shall not be detained by authority of the Magistrate or other Officer as aforesaid beyond the term of one year, and shall be released whenever he shall comply with the order within that term.

Extension of period of confinement.

290. Whenever it shall appear to the Magistrate or other Officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof,

and may refer the case for the orders of the Court of Session, and such Court, after examining the proceedings of the Magistrate or other Officer as aforesaid, and making such further enquiry as such Court may think necessary, may, if it shall see cause, authorize the Magistrate or other Officer as aforesaid to extend the term for a further period not exceeding one year, and if the party shall fail to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other Officer as aforesaid shall direct under the orders of the Court of Session, he may be kept in confinement for such further period or until he shall give such bond within that period.

Discharge of recognizances.

291. The Magistrate or other Officer as aforesaid may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace, taken under the preceding Section, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

292. A surety for the personal appearance of another person may at any time apply to the Magistrate or other Officer as aforesaid, to be relieved from his engagement as surety. On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound, may appear or be brought before him. On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

Enforcement of penalty against the principal party.

293. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any recognizance or other bond taken under this Chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by the bond to pay the penalty thereof or to show cause why it should not be paid; and if sufficient cause be not shown and the penalty be not paid, the Magistrate or other Officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby which shall be found within the jurisdiction of the Magistrate of the

District, and if the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil Gaol for a period not exceeding six months.

Recovery of penalty from surety.

294. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other Officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid; and if no sufficient cause be shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XIX.

SECURITY FOR GOOD BEHAVIOUR.

295—299. Person lurking anywhere without ostensible means, and not giving account of himself, may be required by Magistrate to give security for good behaviour for not exceeding six months. (296). Same provision as to robber by repute, house-breaker, thief, receiver, or person of notoriously bad "livelihood;" (297) same provision as to last mentioned descriptions of persons while in prison, on evidence of their being *habitually* those characters, and also as to desperate and dangerous characters, empowering Magistrate to record his opinion, &c., and require further security, &c.; and (298) send the proceedings to the Court of Session for orders, &c.; and (299) that Court may direct extended imprisonment not exceeding three years.

300. Directs that all orders requiring security for good behaviour shall state the amount, and the number of sureties required and the term, and be in Form F of Appendix.

301. On default of giving the required security, defaulter shall be committed for not longer than the time for which security was required.

302, 303. Empowers Magistrate, &c., to release persons confined by his own order for want of sureties, if it can be done without danger, &c.; and (303) as to person committed by Court of Session to report to that Court, if he thinks party can be released without danger.

304. Entitles security to apply for cancelment of their bonds, and directs commitment of principal in default of finding fresh sureties.

305. On proof of an offence by principal contrary to his bond for good behaviour, surety shall be called upon to pay or show cause why not, and on

default of either, penalty may be enforced by attachment and sale of moveable property, &c., and in default of realization party may be imprisoned in Civil gaol not exceeding six months.

306, 307. Provisions of Chapter 18, respecting summonses and warrants, to apply to proceedings under this Chapter, and (307) all evidence taken under Chapter 18 or this Chapter shall be taken in manner prescribed by Section 267 subject to Section 268.

When Magistrate may require security for good behaviour for six months.

295. Whenever it shall appear to the Magistrate of the District, or to an Officer exercising the powers of a Magistrate, that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding six months.

When Magistrate may require security for good behaviour for one year.

296. Whenever it shall appear to such Magistrate or other Officer as aforesaid, from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property, knowing the same to have been stolen, or of notoriously bad livelihood, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding one year.

How to proceed in cases beyond one year.

297. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property, knowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community, the Magistrate or other Officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour.

Case to be laid before the Court of Session.

298. If the person required to furnish security, as provided in the last preceding Section, shall not furnish the security so required, the proceedings shall

be laid, as soon as conveniently may be, before the Court of Session, which, after examining them and requiring any further information or evidence which it may judge necessary, shall be competent to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or other Officer as aforesaid as it may judge proper.

Court of Session may require security not exceeding three years.

299. If the Court of Session shall not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

What the order for security is to contain.

300. In every instance in which security for good behaviour shall be required by the Court of Session, or the Magistrate or other Officer as aforesaid, the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order. The security-bond shall be in the form F given in the Appendix, or to the like effect.

In default of security, party to be committed to prison.

301. In the event of any person required to give security under the provisions of the foregoing Sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same. Provided that no party shall be kept in prison for a longer period than that for which the security has been required from him.

Proviso.

When Magistrate may release persons under requisition of security.

302. The Magistrate of the District or other Officer exercising the powers of a Magistrate is empowered, at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any Officer subordinate to him, provided he shall be of opinion that such person can be released without hazard to the community.

When he must report.

303. In any case in which a Magistrate or other Officer as aforesaid, shall be opinion that any person confined under requisition of security for good behaviour by order of a Court of Session, can be safely released

without such security, the Magistrate or other Officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

Discharge of surety.

304. A surety for the good behaviour of a person may at any time apply to the Magistrate or other Officers as aforesaid to be relieved from his engagement as surety. On such application being made, the Magistrate or other officer as aforesaid shall issue his summons or warrant in order that the person may appear or be brought before him. On the appearance of the party pursuant to the warrant or on his voluntary surrender, the Magistrate or other officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person to give fresh security, and in default thereof shall commit him to custody.

Proceeding to compel payment of penalty by sureties.

305. Whenever the Magistrate or other Officer as aforesaid shall be of opinion that, by reason of an offence proved to have been committed by the person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid; and if no sufficient cause be shown, the Magistrate or other Officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to such surety which may be found within the jurisdiction of the Magistrate of the District; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil gaol, for a period not exceeding six months.

Issue of summons and warrant of arrest.

306. The several provisions of the last preceding Chapter relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this Chapter against persons required to give security for their good behaviour.

307. Any evidence taken under Chapter XVIII., or this Chapter, shall be taken in the manner prescribed by Section 267, subject to the provision contained in Section 268 of this Act.

Manner of taking evidence under Chapter XVIII., or this Chapter.

By Act IV., 1867, s. 3, a punishment is provided for escaping from lawful custody in default of finding security.

CHAPTER XX.

OF LOCAL NUISANCES.

308—312. For removal from thoroughfare or public place, of any unlawful obstructions or nuisance; for suppression, &c., of any trade or occupation as injurious to health, &c.; for prevention of building or of disposal of combustibles for sake of public safety; for removal of buildings in danger of falling, &c.; for prevention of danger from tank or well, &c., Magistrate, &c., may order parties responsible to appear to remove the nuisance or show cause to the contrary; which order (309), if practicable, shall be served personally, otherwise by sticking up notice; and (310) party notified shall obey the orders or show cause against it, or he may have a Jury on the reasonableness of the order, such Jury to consist of not less than 5, &c.; the order to be suspended in the meantime and finally disposed of according to decision of Jury. In case of default of defendant or Jury, order of Magistrate to be carried out, and (311) defendant in case of default shall be liable to penalty under Section 138 Indian Penal Code; or (312) in case a jury shall have affirmed the order, shall be bound to obey the order under same penalty.

313. If defendant appears and shows that the order is not reasonable, no further proceedings shall be taken.

314. Empowers Magistrate to issue an injunction order on party indicated in Section 308, to prevent imminent injury or danger.

315. Saves the operation of Section 48 of Act XXIV., 1859, and of Section 34 of Act V., 1861.

308. Whenever the Magistrate of a District or of a division of a District may consider that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place, or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place, or that the construction of any building, or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented, or that any building

Magistrate may order removal of nuisances.

is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary, or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public, he may issue an order to the person causing such obstruction or nuisance or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on such person within a time to be fixed in the order, to remove such obstruction or nuisance, or to suppress or remove such trade or occupation, or to cause again construction of, or to remove such building, or to a petition disposal of such substance, or to fence such tank or weall (as the case may be), or to appear before such Magistrate within the time mentioned in the order, and show cause why such order should not be enforced. [Extended to Calcutta by Act XXI, 1864.]

Service or notification of order.

309. Such order shall, if practicable, be served personally on the person to whom it is issued; but if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person. [Extended to Calcutta by Act XXI., 1864.]

Person ordered shall obey the order, or may claim a Jury.

Constitution of Jury.

310. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate to show cause as aforesaid, or he may apply to the Magistrate by petition for an order for a Jury to be appointed to try whether the order is reasonable and proper. On receiving such petition, the Magistrate shall forthwith appoint a Jury which shall consist of not less than five persons, whereof the President and one-half of the members shall be nominated by such Magistrate, and the remaining members by the party petitioning. The Magistrate shall suspend the execution of the order pending such enquiry, and be guided by the decision of the Jury, which shall be according to the opinion of the majority. If the petitioner shall, by neglect or in any other way, prevent the appointment of a Jury, or if from

Proceeding in case of neglect by Jury.

any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by the Jury, the order of the Magistrate shall be carried into effect as hereinafter provided. [Extended to Calcutta by Act XXI., 1864.]

Procedure in case of disobedience or neglect by party ordered.

311. If the person to whom the order mentioned in Section 310 is addressed shall not obey such order, or show cause against the same as hereinafter provided, or apply for a Jury within the time specified in such order, he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code, and the Magistrate who issued such order may proceed to carry such order into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the personal property of the person aforesaid, and no suit or action shall be entertained in any Court in respect of any thing necessarily or reasonably done to give effect to such order. [Extended to Calcutta by Act XXI., 1864.]

If Jury find order of Magistrate to be reasonable and proper.

312. If in a case referred to a Jury, the Jury shall find that the order of the Magistrate is reasonable and proper, the Magistrate shall give notice thereof to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed therein under the penalty provided by the Indian Penal Code as aforesaid. If such latter order shall not be obeyed, the Magistrate may proceed as in the last preceding Section. [Extended to Calcutta by Act XXI., 1864.]

If party ordered satisfy the Magistrate that the order is not reasonable and proper.

313. If the person to whom the order of the Magistrate is issued shall appear and show cause against the same, and shall satisfy the Magistrate that the order is not reasonable and proper, no further proceedings shall be taken in the case. [Extended to Calcutta by Act XXI., 1864.]

Issue and enforcement of injunction.

314. If, pending the enquiry by a Jury, the Magistrate shall consider that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, it shall be lawful for such Magistrate to issue such an injunction and order to the person mentioned in that behalf in Section 308, as shall be required to obviate or prevent such danger or injury, and in default of such person forthwith taking all necessary measures ordered to be taken by such injunction or order, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury, and no suit or action shall be entertained in respect of anything necessarily or reasonably done for that purpose. [Extended to Calcutta by Act XXI., 1864.]

Saving of certain provisions.

315. Nothing in this Chapter shall interfere with the provisions of Section XLVIII. of Act XXIV. of 1859 *(for the better regulation of the Police within the Territories subject to the Presidency of Fort St. George)* or of Section XXXIV. of Act V. of 1861 *(for the regulation of Police)*.

CHAPTER XXI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

316. Empowers Magistrate, &c., to make an order for maintenance of wife or child, legitimate or illegitimate, unable to maintain himself, at rate not exceeding 50 Rs. per month, and in default of payment to issue distress warrant. Order not to be made if wife is living in adultery, or refuses, without reason, to live with her husband.

317. Authorises Magistrate to entertain application to reduce the allowance on alteration of circumstances.

Magistrate may make order for maintenance of wives and children.

316. If any person having sufficient means, neglects or refuses to maintain his wife, or any legitimate or illegitimate child, unable to maintain himself, it shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife and child at such monthly rate, not exceeding fifty Rupees in the whole, as to the

Magistrate or other Officer as aforesaid shall seem reasonable; and if such person shall wilfully neglect to comply with the order, the Magistrate or other Officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order such person to be imprisoned with or without hard labor for any term not exceeding one month. Provided that if such person offer to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate or other Officer as aforesaid to consider any grounds of refusal stated by such wife; and he may make the order allowed by this Section notwithstanding such offer, if he shall be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. No wife shall be entitled to receive an allowance from her husband under this Section if she is living in adultery, or if without any sufficient reason she refuses to live with her husband.

Enforcement of order.

Proviso.

317. Any person ordered to pay a montly allowance for the maintenance of his wife, or child, or both, under the provisions of the last preceding Section, may apply to the Magistrate, from time to time, for the reduction of such allowance; and on proof of an alteration in the circumstances of such person, his wife, or child, justifying such reduction, such Magistrate may make such reduction in the allowance ordered as he may deem fit.

Application for reduction of allowance.

CHAPTER XXII.

OF DISPUTE RELATING TO THE POSSESSION OF LAND OR THE RIGHT OF USE OF ANY LAND OR WATER.

318, 319. Empowers Magistrate, &c., in case of dispute likely to induce breach of the peace, concerning land, &c., to call on all parties to attend his Court, whereupon he may declare what party shall be entitled to have possession until ousted in due course of law; or (319) if none of the parties to the dispute be in possession, he may attach the land, &c., till the rights are determined, &c.

320. Empowers Magistrate in case of dispute concerning the right of land or water to enquire, and may make order prohibiting exclusion of parties

whom he may deem entitled, but such order not to be made if right of use shall not have been exercised within 3 months of right claimed all the year.

321. Save the powers of a Collector, &c.

Magistrate, how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.

318. Whenever the Magistrate of the District or other Officer exercising the powers of a Magistrate shall be satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other Officer as aforesaid, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute.

Party in possession to be continued until ousted by due course of law.

The Magistrate or other Officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire which party is in possession of the subject of dispute, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to be in such possession, to be entitled to retain possession until ousted by due course of law, and forbidding all disturbances of possession until such time.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

319. If the Magistrate or other Officer as aforesaid shall decide that neither of the parties is in possession, or shall be unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach the subject of dispute until a competent Civil Court shall have determined the rights of the parties, or who ought to be in possession.

Disputes concerning right of use of land or water.

320. If a dispute arise concerning the right of use of any land or water, the Magistrate or other Officer as aforesaid, within whose jurisdiction the subject of dispute lies, may enquire into the matter, and if it shall appear to him that the subject of dispute is open to the use of the public, or of any person, or of any class of persons, the Magistrate or other Officer may order the possession thereof shall not be taken or retained by any party to the exclusion

of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession. Provided that the Magistrate or other Officer as aforesaid shall not pass any such order if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the enquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Saving of powers of Collectors and Revenue Courts.

321. Nothing in this Chapter shall affect the powers of a Collector or a person exercising the powers of a Collector, or of a Revenue Court.

CHAPTER XXIII.

OF JURORS AND ASSESSORS.

322, 323. Empowers the Local Government to order Court of Session trials of all or any particular offences to be by jury; but (323) all trials in Court of Session, of Europeans (not British subjects), and Americans shall be by jury, of at least one-half of Europeans or Americans, unless they elect to be tried without jury: but such option not, if jury trial has been ordered by Government for the District.

324. Court of Session trying without jury shall have aid of 2 or more Assessors, whose opinion shall be recorded, but the decision is vested exclusively in the Judge.

325, 326. Of Jury on trial (except of European not British subject and American) one-half, at desire of accused, shall consist of persons not being either European or American; and (326) if person not entitled to privilege under Section 323 is tried with person who is entitled to and claims, the former shall, if he desires it, be tried separately.

327. The Jury in Court of Session shall consist of odd number, not less than 5 or more than 9, to be fixed by order of Government.

328. On unanimity of all the jurors, or of 4 out of 5, 5 out of 7, or 6 out of 9, accused may be convicted. On unanimity of all the jurors, or of 4 out of 5, 5 out of 7, or 6 out of 9, the accused shall be acquitted, and no verdict of acquittal shall be received except from numbers aforesaid.

329—332. Collector, &c., to prepare general Jury list, of persons qualified by education and character, &c.; copies (330) of which list shall be stuck up in Office, &c., with notice for revising it on objections; and (331) list to be revised and signed, &c.; and (332) revision to be made annually.

333. Makes, except as provided hereinafter, all male residents between 21 and 60, liable to be put on Jury list, and to serve as Jurors and Assessors.

334. Disqualified persons are:—(1) persons holding office in the Court; (2) the Police and persons executing Police duties; (3) persons convicted of offence against the State or of fraudulent offence, &c.; (4) persons afflicted with incapacitating infirmity; (5) persons who have relinquished by vow or habit all care of worldly affairs.

335. Exempted person are:—(1) Judges and Judicial Officers; (2) Commissioners and Collectors of Revenue or Customs; (3) Preventive Officers of Customs; (4) persons employed in the collection of the Revenue whom the Collector may exempt; (5) Chaplains and persons in religious offices; (6) persons in Military Service; (7) Surgeons and Medical Practitioners; (8) persons employed in Post Office and Electric Telegraph Departments; (9) Officiating Priests of all religions; (10) persons exempted from personally appearing in Court by Section 2 of Act VIII., 1859; but exempted persons are not disqualified, but may serve.

336, 337. Court of Session to summon for Jury service as many persons not fewer than double the number required actually to serve, to be drawn by lot (not having served within six months), as Court may deem necessary, 3 days before the Session; (337) summons to be in writing and served personally, unless absent, and then be left with male adult of family.

338. Court of Session may summon extra number of jurors if attendance of one set for the whole Session would be likely to be oppressive.

339. Jurors in Government Offices to be served through the Head of the Office, and may be excused on representation of latter, &c.

340. Court of Session may excuse any Juror for reasonable cause.

341. Court to keep a list of the Jurors who serve at each Session.

342. From Jurors returned Jury to be chosen by lot, assessors to be selected by Judge; (343) names of Jurors to be called over, and accused and prosecutor may challenge; objection to be decided by Court, and, if allowed, another to be called in lieu of former.

344. Objections to Jurors shall be allowed if made on following grounds:—(1) any disqualification within Section 334; (2) standing in relation of husband master, or servant, &c., to either prosecutor or accused, &c., (3) any circumstance likely in the judgment of the Court to cause a bias, &c., to either side.

345. Judge not to allow any one to serve who does not understand the language in which the evidence is given or interpreted.

346. The Jury to appoint a Foreman to preside, &c., deliver verdict, and ask information; or Court shall name Foreman if majority of Jury cannot agree.

347. Same Jury (subject to challenge) may try several successive cases.

348. Provides for a view being had by the Jury.

349. Provides for summoning and empannelling Jury for trial of European (not being British subject) and American.

350. In case of inability of a Juryman to sit through a trial, or of Juror absenting himself, &c., a new Juror or new Jury may be called, and the trial shall commence anew.

351. In case of verdict of guilty or not guilty by a majority of the Jury composed of less than the required number, there shall be a new trial by a new Jury, and on second trial, an acquittal by a simple majority shall be final.

352. After the Judge has summed up, the Jury may retire, &c., and on returning Jury shall be asked by Judge if they are unanimous, and if not they may be sent back for further deliberation, and if after reasonable time they remain not unanimous, the Jury may deliver their verdict.

353. If Assessor before the finding becomes unable to sit through, Court may proceed without him. If all the Assessors become so, a new trial shall be held.

354. Juror or Assessor failing without lawful excuse to attend, or absenting himself in Court of Session, may be fined not exceeding 100 Rs., to be levied by distress and sale of goods, &c., and in default of realization by imprisonment in Civil Gaol.

Local Government by order to specify in what places trials to be by Jury.

322. The Local Government may order that the trial of all offences or of any particular class of offences by any Court of Session shall be by Jury in any District, and such Local Government may from time to time revoke or alter such order. Orders passed under this Section shall be published in the "Government Gazette," and in such other manner as the Local Government shall direct.

How the Jury is to be constituted for the trial of persons belonging to certain specified races.

323. Criminal trials before the Court of Session in which a European (not being a British subject) or an American is the accused person, or one of the accused persons, shall be by Jury; and in such case the Jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subject or not) or Americans, if such a Jury can be procured. Provided that in any District in which the Local Government shall not have ordered that all trials or trials for all offences of the class within which the trial about to take place falls, shall be by Jury, such European or American may elect to be tried without Jury.

Proviso.

Trials before the Session Court with Assessors.

324. In a trial before the Court of Session not by Jury, the trial shall be conducted with the aid of two or more Assessors as members of the Court. The opinion of each Assessor shall be given

orally and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

How the Jury is to be constituted for the trial of other persons.

325. In a trial by Jury before the Court of Session in which a person not belonging to the races specified in Section 323 shall be tried, at least one-half of the Jury, if the accused person desire it, shall consist of persons not belonging to either of such races.

How the Jury is to be constituted when persons of both descriptions are jointly charged.

326. In any case before the Court of Session in which a person not belonging to the races mentioned in Section 323 is charged jointly with a person belonging to one of those races, and such last-mentioned person claims to be tried by a Jury consisting of at least one-half of Europeans or Americans, the person not belonging to either of such races shall, if he desire it, be tried separately.

Number of which the Jury is to consist.

327. In trials by Jury before the Court of Session, the Jury shall consist of five persons, or of such number being an uneven number, and not being less than five or more than nine, as the Local Government by any general order applicable to any particular District or to any particular classes of offences in that District shall direct.

Number of voices necessary to a verdict.

328. If the Jury are unanimous in a verdict of guilty, the accused person shall be convicted. If the Jury shall consist of five persons and a majority of four find the accused person guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person guilty, the accused person shall be convicted. If the Jury are unanimous in a verdict of not guilty, the accused shall be acquitted. If the Jury shall consist of five persons and a majority of four find the accused person not guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person not guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person not guilty, the accused person shall be acquitted, and the Judge shall not receive a verdict of acquittal unless it be unanimous or found by such majority as last aforesaid.

List of Jurors and Assessors.

329. The Collector of the District or other Officer exercising the powers of a Collector of a District shall, from time to time, prepare and make out in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government may think fit to direct, who are, in the judgment of the Collector or other Officer as aforesaid, qualified from their education and character to serve as Jurors or as Assessors respectively. The list shall contain the name, place of abode, and quality or business of every such person; and if the person belongs to either of the races specified in Section 323, the list shall mention the race to which he belongs.

Publication of list.

330. Copies of such list shall be stuck up in the Office of the Collector or other Officer as aforesaid and in the Court-houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside, and every such copy shall have subjoined to it a notice, stating that objections to the list will be heard and determined by the Collector or other Officer as aforesaid, at a time and place to be mentioned in the notice.

Revision of list.

331. The Collector or other Officer as aforesaid shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a Juror or as an Assessor, and insert the name of any person omitted therefrom, whom he deems qualified for such service. A copy of the revised list shall be signed by the Collector or other Officer as aforesaid, and transmitted to the Court of Session. Any order of the Collector or other Officer as aforesaid in preparing and revising the list shall be final.

Further revision of list.

332. The list so prepared and revised shall be again revised at least once in every year, and the list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors.

333. Except as hereinafter provided, all male persons between the ages of twenty-one and sixty, resident within the limits of the jurisdiction of the Court of Session, shall be deemed capable of serving as Jurors and Assessors, and shall be liable to be summoned accordingly.

Disqualifications.

334. The following persons are incapable of serving as Jurors or as Assessors in trials before the Court of Session, namely:—

Persons who hold any Office in or under the said Court.

Persons executing any duties of Police, or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence, which in the judgment of the Collector, renders them unfit to serve on the Jury.

Persons who are afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

335. The following persons are exempt from the liability to serve as Jurors, or as Assessors, namely:—

Judges and other Judicial Officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the Revenue whom the Collector may think fit to exempt on the ground of official duty.

Chaplains and others employed in Religious Offices.

All persons in the Military service.

Surgeons and others who openly and constantly practise in the profession of Physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of Section 22 of Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*).

The exemption from service given by this Section is a right of which each person exempted may avail himself or not. Nothing herein contained shall be construed to disqualify any such person if he shall be willing to serve as a Juror or as an Assessor.

Person exempted is not bound to avail himself of his right of exemption.

336. The Court of Session shall ordinarily, three days at the least before the time fixed for the holding of Sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by Jury and trials with the aid of Assessors at the said Sessions, the number to be summoned not being less than double the number required for any case about to be tried at such Sessions. The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

Court to summon Jurors.

337. Every summons to a Juror or Assessor shall be in writing, and shall require his attendance as a Juror or Assessor at a time and place to be therein specified. The summons or a copy thereof shall be served on every Juror or Assessor personally. If the Juror or Assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

Form and service of summons.

338. The Court of Session may direct Jurors or Assessors to be summoned at other periods than the period specified in Section 336 when the number of trials before the Court renders the attendance of one set of Jurors or Assessors for a whole Session oppressive, or whenever it may be found to be necessary.

Power of Court to summon another set of Jurors or Assessors.

339. If any person summoned to serve as a Juror or Assessor, be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot

Service of summons to serve as Juror or Assessor, on an Officer of Government.

serve as a Juror or Assessor without inconvenience to the public service.

Court may excuse attendance of a Juror or Assessor.

340. The Court of Session may excuse any Juror or Assessor from attendance for reasonable cause.

List of names of Jurors or Assessors attending at each Session.

341. At each Session the Court shall cause to be made a list of the names of those who serve as Jurors or Assessors at such Session. The list shall be kept with the revised list of the Jurors and Assessors prepared under Section 331. A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this Section.

Jurors to be chosen by lot.

342. Whenever a trial by Jury is to be held, the persons who are to constitute the Jury shall be chosen by lot immediately before the commencement of the trial from the Jurors who attend in obedience to the summons.

Assessors to be selected by Judge.

If the trial is to be held with the aid of Assessors, the Judge shall select from the persons summoned to act as Assessors, two or more persons to assist him in such trial.

Names of Jurors to be called.

343. Before the commencement of a trial by Jury the names of the Jurors shall be called aloud, and upon the appearance of each Juror, the accused person shall be asked if he objects to be tried by such Juror.

Objections.

Any objection may then be made to such Juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated. Any objection made to a Juror shall be decided by the Court, and the decision of the Court shall be final. If an objection be allowed, the place of such Juror shall be supplied by any other Juror in attendance in obedience to a summons, or if there be no such Juror present, then by any other person present in the Court whose name is on the list of Jurors, or whom the Court shall consider a proper person to serve on the Jury, provided no objection to such Juror or other person be made and allowed.

Grounds of objection.

344. Any objection taken to a Juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:

1. Any ground of disqualification within Section 334.

2. Standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused, being in the employment on wages of either of such persons; being plaintiff or defendant against either of such persons in any Civil suit, or having complained against or having been accused by either of such persons in any Criminal prosecution.

3. Any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, either of such persons.

Juror to understand the language in which evidence is given or interpreted.

345. The Judge shall not allow any person to serve on the Jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of Jury.

346. The Jury shall appoint one of their number to be Foreman. It shall be the duty of such Foreman to preside in the debates of the Jury, to deliver the verdict of the Jury, or ask any information from the Court that may be required by the Jury. If a majority do not agree in the appointment of a Foreman, he shall be named by the Court.

The same Jury or Assessors may try in succession several offenders.

347. The same Jury, if not objected to, may try, or the same Assessors may aid in the trial of, as many accused persons successively as to the Court shall seem expedient.

View by Jury or Assessors.

348. Whenever in the opinion of the Court it may be proper and convenient that the Jury or Assessors should have a view of the place in which the offence charged is said to have been committed, or of any other place in which any other transaction material to the inquiry in the trial took place, an order shall be made to that effect, and the Jury or Assessor shall be conducted in a body under the care of an Officer of the Court to the place which shall be shown to them by a person appointed by the Court, and it shall be the duty of the Officer not to suffer any other person to speak to or hold any communication with any of the Jury or

Assessors, and they shall, when the view is finished, be immediately conducted back into Court.

Mode of summoning and empannelling Jurors for a Jury constituted under Section 323.

349. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by Jury constituted under the provisions of Section 323 of this Act, the Court of Session shall, three days at the least before the day fixed for holding such trial, cause to be summoned in the manner prescribed in Section 336, such a number of Jurors of the races mentioned in Section 323, as is equal to the total number of Jurymen required for the trial, if so many of such races be on the Jury List of the District. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for Jury trials at that Session. The names of the persons to be summoned shall be drawn by lot excluding those who have served within six months, unless the number cannot be made up without them. From the whole number of persons returned, the Jurors who are to constitute the Jury shall be taken by lot in the manner prescribed in Section 342, until a Jury, containing the proper number of the races mentioned in Section 323, or a number approaching as nearly thereto as possible, has been obtained. The Jurors shall be liable to the same objections as any other Jurors. If a Jury containing the requisite number of the races mentioned in Section 323 be not obtained, the accused person may elect to be tried by the Judge with the aid of Assessors; otherwise he shall be tried by the Jury obtained by the means aforesaid.

If, prior to finding, any of the Jury be unable to proceed with the trial.

350. If, in the course of a trial by Jury at any time prior to the finding, any Juror shall, from any sufficient cause, be prevented from attending through the trial, or if any Juror shall absent himself, and it shall not be possible to enforce his attendance, a new Juror shall be added, or the Jury shall be discharged, and a new Jury empannelled, and in either case the trial shall commence anew.

Verdict of guilty by less than the specified majority of jury.

351. In any trial by Jury, if the accused person is found guilty by a majority consisting of a less number of the Jury than is specified in that behalf in Section 328 of this Act, or if the accused

person be found not guilty by a majority consisting of a less number of the Jury than is therein in that behalf specified, the Jury shall be discharged, and in any such case as aforesaid, there shall be a new trial before a Jury consisting entirely of other Jurors, and the accused person may be remanded or held to bail for such new trial. If, on any new trial by Jury, the accused person shall not be found guilty by a majority consisting of such a number as aforesaid, he shall be acquitted.

When and how long Jury may retire for finding.

352. At the close of the trial, and after the Judge has summed up the evidence as hereinafter provided by Section 379 of this Act, the Jury may retire to consider their finding, and it shall be the duty of an Officer of the Court not to suffer any person to speak to or hold any communication with any member of such Jury. In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the Foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If after such a period as the Judge shall consider reasonable, the Foreman or any one of the Jury shall declare that they are not unanimous, the Jury may deliver their verdict.

If either of the Assessors be unable to proceed with trial.

353. If, in the course of a trial with the aid of Assessors, at any time prior to the finding, any Assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the other Assessor or Assessors. If all the Assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh Assessors.

Penalty for non-attendance of Juror or Assessor.

354. Any person summoned to attend as a Juror or as an Assessor, who shall without lawful excuse fail to attend as required by the summons, or having attended shall depart without having obtained the permission of the Court, shall be liable by order of the Court of Session to a fine not exceeding one hundred Rupees, to be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such Juror or Assessor within the jurisdiction of the Court making the order,

or in default of recovery of the fine by such attachment and sale, such Juror or Assessor may be imprisoned in the Civil Gaol for the space of fifteen days, if the fine be not sooner paid.

CHAPTER XXIV.

OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT ST. GEORGE.

355. Saves the existing criminal jurisdiction of Subordinate Judges and Principal Sudder Ameens in Madras, and confers on them the same power of punishment as Magistrates have under this Act.

356, 357. Subordinate Magistrates of first and second class in Madras shall commit to Court of Session for offences exclusively triable by that Court, and according to orders of Sudder shall commit either to the Subordinate Judges and Principal Sudder Ameens or to Magistrates cases triable by the former, and Magistrate shall proceed as if proceedings had been held in other Court, and (357) if Subordinate Magistrate finds party guilty and deserving punishment exceeding his powers, he shall send his proceedings to Magistrate to pass sentence, &c.

358. Subordinate Judges and Principal Sudder Ameens shall follow rules of Procedure prescribed for Magistrates, and may commit to Court of Session cases appearing presumably to call for heavier punishment than they can give.

Criminal Jurisdiction and powers of punishment of Subordinate Judges and Principal Sudder Ameens.

355. The Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort St. George shall continue to exercise under this Act, subject to the provisions of the Indian Penal Code, the Criminal jurisdiction which they are competent to exercise under any law for the time being in force, and shall have the same powers of punishment as are given by this Act to an Officer exercising the powers of a Magistrate.

What cases Subordinate Magistrate may commit and what cases they may refer to Magistrate.

356. Subordinate Magistrates of the first and second class in the Presidency of Fort St. George shall commit to the Court of Session any person charge with the offences triable exclusively by that Court, or shall, under such orders as the Sudder Court shall from time to time issue, either commit to the Subordinate Judges or Principal Sudder Ameens the cases of person accused of offences triable by such Subordinate Judges or Principal Sudder Ameens, or refer such cases for the orders of the

Magistrate of the District or other Officer existing the powers of a Magistrate. If the case be referred to the Magistrate of the District or other Officer as aforesaid, such Magistrate or other Officer shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

Subordinate Magistrate after trial may refer to Magistrate of the District.

357. If in any case tried by a Subordinate Magistrate of the first or second class in the Presidency of Fort St. George in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than such Magistrate is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Magistrate of the District or other Officer as aforesaid shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any such case the Magistrate or other Officer to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Cases committed for trial before Subordinate Judges and Principal Sudder Ameens.

358. In cases committed for trial before the Subordinate Judges or Principal Sudder Ameens in the Presidency of Fort St. George, they shall be guided by the rules contained in this Act, for the trial of cases before the Magistrate, which are hereby made applicable to such cases. The Subordinate Judges and Principal Sudder Ameens may commit any case to the Court of Session in which the evidence is such as to warrant a presumption that the accused person has been guilty of an offence calling for a more severe punishment than such Subordinate Judges or Principal Sudder Ameens are authorised to adjudge.

CHAPTER XXV.

TRIALS BEFORE THE COURT OF SESSION.

359, 360. Except in cases referred to in Section 172, Court of Session shall have cognizance only of cases committed to it by Magistrate or other competent Officer; and (360) every trial shall be prosecuted on behalf of Government and the complainant be a witness.

361. Empowers Court to posip[illegible]al.

362—365. Trial to commence b[illegible]ading, &c., charge to the accused and asking him if he is guilty or claims to be tried, &c., (363) if he refuses to plead, &c., the Court shall proceed to try him; and (354) Sections 195—200 shall apply to trials before Court [illegible] Session, which (365) may commit witness for refusing to answer question, &c.

366. The examination of the accused before the Magistrate shall be given in evidence, without proof, &c.

367. Empowers Court to call any witness whose evidence it deems essential.

368—370. Makes the examination of the Civil Surgeon, &c., if duly attested; and (369) the examination of witness who is dead, and of witness whose attendance cannot be procured, evidence; and (370) the report of Chemical Examiner to Government, &c., evidence if signed by him.

371. Makes the dying declaration of deceased person, whether made in presence of accused or not, evidence, if deceased believed himself in danger, &c.

372, 373. At close of case for prosecution, the accused shall be called on for his defence and evidence; and (373) Court may at close of case put any question to the prisoner, who may answer or not at his discretion.

374. Gives the accused the right of addressing the Court by himself or Counsel at close of case for the prosecution, or of his own evidence, &c.

375. Entitles accused to examine any witness in attendance, though not previously named by him.

376. Entitles prosecutor to a reply if accused calls witnesses or answers questions put by the Court.

377, 378. Empowers the Court at its discretion to adjourn the trial; and (378) obliges persons to attend adjourned sitting, under penalty in case of default.

379. Directs the Judge to sum up the evidence; Judge's direction to Jury to form part of the record; and in trials not by Jury the ground of Judge's decision to be recorded.

380. If accused is acquitted, judgment of acquittal to be recorded; if convicted, sentence is to be passed; but sentence of death not to be carried out till confirmed by Sudder; and if for offence capitally punishable, lighter sentence shall be passed, the grounds shall be reported, &c.

Cognizance of offences by the Court of Session in original jurisdiction.

359. Except in the cases referred to in Section 172 of this Act, a Court of Session, as a Court of original criminal jurisdiction, shall not take cognizance of any offence but upon a charge preferred by a Magistrate or other Officer specially empowered under this Act or under any other law to make commitments to such Court.

360. In every trial before a Court of Session the prosecution shall be conducted by the Government Pleader or by some other Officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

Every trial before Court of Session to be conducted by Government Pleader, &c.

361. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of justice.

Postponement of trial.

362. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried. If the accused person plead guilty, the plea shall be recorded, and the accused may be convicted thereon.

Commencement of trial.

363. If the accused person shall refuse to plead, or shall claim to be tried, the Court shall proceed to try the case, taking all the evidence that is forthcoming.

Refusal to plead, or plea of claim.

364. The provisions of Sections 195, 196, 197, 198, 199, and 200 of this Act, relating to the examination of parties and witnesses, the mode of recording evidence, and the correction, attestation, and interpretation thereof in trials before the Magistrate, shall be applicable to trials before the Court of Session under this Chapter.

Provisions relating to examination of parties, &c., in trials before Magistrate to be applicable to trials before Court of Session.

365. If any witness shall refuse to answer any question which shall be put to him, and shall not offer any just excuse for such refusal, the Court may commit such witness to custody for such reasonable time as it may deem proper, unless he shall in the meantime consent to be examined and to answer. In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Witness refusing to answer may be committed to custody.

366. The examination of the accused person before the Magistrate shall be given in evidence at the trial. The attestation of the Magistrate shall be sufficient *primâ facie* proof of such exami-

Examination of accused before the Magistrate to be evidence at the trial.

nation, and such attestation shall be admitted without proof of the signature of it, unless the Court shall see reason to doubt its genuineness.

Proof of such examination.

367. It shall be in the discretion of the Court, at any stage of a trial, to summon and examine any witness whose evidence it shall consider essential to the just decision of the case. The Court may also examine as a witness any person in attendance although not summoned as a witness.

Court may summon necessary evidence.

368. The Court shall receive as *primâ facie* evidence the examination of a Civil Surgeon or other Medical witness taken and duly attested by the Magistrate. Provided that it shall be competent to the Court to summon such Civil Surgeon or other Medical witness, if it shall see sufficient cause for doing so.

Evidence of Medical witness.

369. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence if the witness be dead or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

Examination of witness taken and attested by Magistrate when admissible.

370. Any document purporting to be a report from the Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in preliminary enquiry relating thereto, shall be received in evidence at a trial by the Court of Session, if it bear the signature of such Examiner, and no proof of such signature or that the person signing holds such office, shall be requisite unless the Court shall see reason to doubt the genuineness of the document.

Report of Chemical Examiner admissible in evidence.

371. The declaration of a deceased person, whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Dying declaration.

372. When the case for the prosecution has been brought to a close, the accused person shall be called upon to enter upon his defence, and to produce his evidence.

Defence.

When accused person may be examined.

373. The Court, at the [illegible] of the evidence on behalf of the accused person, if any evidence is adduced on his behalf, or otherwise at the close of the case for the prosecution, may put any question to the accused person which it may think proper. It shall be in the option of the accused person to answer such question.

When accused may address the Court.

374. The accused person or his Counsel or Agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf, or if any question shall be put to the accused person by the Court, after such question shall have been so put.

Witness for the defence.

375. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any other witness summoned than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in Section 246 of this Act.

Prosecutor's right of reply.

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or Agent for the prosecution, shall be entitled to a reply.

Adjournment.

377. The Court may in its discretion, from time to time, adjourn the trial as may be necessary.

Jury or Assessors to attend at adjourned sitting.

378. In the event of the adjournment of a trial by Jury or with the aid of Assessors, the Jury or Assessor shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial; and any Juror or Assessor who shall, without lawful excuse, fail so to attend, shall be liable to the penalty prescribed in Section [illegible] of this Act, and such penalty shall be enforced in the manner therein prescribed.

Of verdict of Jury.

379. In a trial by Jury, the Judge shall sum up the evidence on both sides, and the Jury shall then deliver their finding upon the charge. A statement of the Judge's directed to the Jury shall form part of the record. In trials not by Jury, the ground of the Judge's decision shall be recorded. [Amended by Act XXXIII., 1861.]

380. If the accused person is acquitted, the Court shall record a judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law. Provided that, if the Court pass sentence of death, the sentence shall not be executed without the confirmation of the Sudder Court. If the accused person shall be convicted of an offence which by the Indian Penal Code is punishable with death, and the Court shall sentence such person to any punishment other than death, the Court shall state the grounds upon which it remitted the punishment of death in the statement of trials to be periodically submitted to the Sudder Court as hereinafter required, under the head of "Sentences passed upon the accused persons."

Acquittal or conviction.

CHAPTER XXVI.

FINDING, JUDGMENT, AND SENTENCE.

381. Enjoins on Court in passing judgment, to state offence of which convicted, and judgment to be according to Section 72 of Indian Penal Code, if facts admit of double construction.

382. Prescribes the forms of the finding and sentence—

First.—In Jury trials, (1) when Jury unanimous in finding person guilty; (2) when unanimous in finding him not guilty; (3) when there is a sufficient majority for finding guilty; (4) when the majority is sufficient for not guilty; (5) where the Jury is doubtful of what offence, but the majority is sufficient for finding of not guilty; (6) when a majority smaller than is required is for finding guilty, and when a majority smaller than is required is for finding not guilty; (7) on a second trial, when a majority less than is required is for finding guilty, and therefore the prisoner is discharged.

Second.—In trials with Assessors:—(9*) in case of the Court concurring, with, and (10) if the Court differs from the Assessors; and (11) if the Court concurs with one of the Assessors.

Third.—In trials on a final charge without Jury or Assessors; (12) where the finding is guilty; (13) where it is not guilty.

Fourth.—In trials without a formal charge, (14) where the charge is not, (15) where it is proved.

383—385. Directs that in cases referred by Court of Session to Sudder, the order of the Sudder shall be forthwith forwarded to the former and be carried out forthwith, by warrant to Magistrate if it be for execution; and (385) directs Court of Session to forward copy of its sentence to the Magistrate, &c.,

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* 8 is omitted in the Government Copy.

with warrant for execution; and execution shall accordingly be carried out forthwith.

386. In case of sentence of imprisonment by Sudder or Session, the Magistrate shall issue his warrant to the gaoler stating the offence, conviction, and term; and other Courts shall issue similar warrants direct to gaoler on their sentences.

387. Court of Session to transmit to the Sudder such periodical calendar as may be required.

What the judgment is to specify.

381. When the trial in any criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the Indian Penal Code under which he is convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

Form of finding and sentence.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect.

In trials by Jury:—

When the Jury are unanimous:

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be [*sentence*].

2nd. The Jury are unanimous in finding that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty.

3rd. A majority (stating the number, consisting of four out of five, or five or six out of seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as

such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [*sentence*].

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty:

4th. A majority of the Jury (stating the number, as above,) find that Z is not guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act, concur in finding the accused guilty of an offence but are doubtful under which of two heads of a charge the offence falls:

5th. The Jury, or a majority of the Jury (stating the number as above), find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence*].

When a majority less than the number required by Section 328 of this Act find the accused guilty:

6th. A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c., the Court directs that the Jury be disharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act, find the accused guilty:

7th. A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors:

9th. The Court, concurring with the Assessors (or one or more of the Assessors), finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [*sentence*].

10th. The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

11th. The Court, concurring with one of the Assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified in the second head of charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust, and has thereby committed an offence punishable under Section 405 of the Indian Penal Code; and the Court directs that under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence*].

In trials upon a formal charge, without Jury or the aid of Assessors:

12th. The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be [*sentence*].

13th. The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft, and

has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:

14th. The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [*sentence*].

15th. The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

Executions of sentence of Court in cases referred to the Sudder Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the Sudder Court, the proper Officer of the Sudder Court shall, without delay, after the order of confirmation or other order has been made by the Sudder Court, transmit a copy of the order under the seal of the Sudder Court, and attested with his official signature, to the Court of Session, which, if the sentence be confirmed, shall immediately issue a warrant to the Magistrate or other Officer in charge of the gaol in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to direct warrant to District Magistrate.

384. In cases tried by the Court of Session, the Court shall forward a copy of its sentence, together with a warrant for the execution of the same, directed to the Magistrate of the District in which the trial was held or to such other Officer as aforesaid.

Execution of sentence under the two last foregoing Sections.

385. Upon the receipt of a warrant under either of the last two preceding Sections, the Magistrate or other Officer as aforesaid shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Warrant of commitment in cases of imprisonment.

386. In every case of imprisonment under the sentence of the Sudder Court or of a Court of Sessions, the Magistrate or other officer as aforesaid shall issue his warrant to the gaoler, stating the offence of which the accused person has been convicted, and

the period during which he is to be imprisoned and the nature of the imprisonment. In every case of imprisonment under the sentence of any other Court, the Court passing the sentence shall issue its warrant to the gaoler, and the warrant shall contain the same particulars and be to the same effect.

Transmission of Periodical calendars of trials by Court of Session.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

CHAPTER XXVII.

OF LUNATICS.

388—390. If person charged with an offence shall appear to Magistrate to be of unsound mind and incapable of making a defence, &c., Magistrate shall institute an inquiry, &c., and an examination shall be made by the Civil Surgeon, &c., and proceedings shall be stayed if unsoundness be found; and (389) on trial before Court of Session, in such case, the Court shall try the question of unsoundness, and if the fact be found, the trial shall be postponed; and (390) provides similarly for like cases on trial before Magistrate, and provides that in any case in which the fact of unsoundness is found, the Magistrate or Court of Session may take bail if offence be bailable, and if not bailable prisoner to be placed in safe custody according to order of Government.

391, 392. Empowers Magistrate or Court of Session at any time after postponement of trial under Sections 388, 389 to resume the investigation, &c., and until investigation is completed case shall remain on Court file, and obliges surety to produce defendant at any time to Officer for inspection, whose certificate shall be of what effect; and (392) the investigation shall proceed whenever on inspection the accused shall appear of sufficiently sound mind, and be deferred until then.

393, 394. Whenever a person is acquitted on ground of unsoundness of mind, &c., the finding shall state if the act was committed or not, and (394) if it was, the defendant shall be kept in safe custody of Magistrate till the order of Government.

395. If a person is confined under Section 390 or 394, the Inspector of Gaols or Visitors of Lunatic Asylums (as the case may be) to visit such person to ascertain his state of mind, and he shall be visited and reported on once in every 12 months; and if (2) under Section 390 once he is reported capable, he shall be taken before the Magistrate, or if (3) under Section 394, &c., he is reported as no longer dangerous, the Local Government shall order his

discharge or his transfer to public Lunatic Asylum, and issue a Commission of Inquiry, on whose report, &c., person may be discharged.

396. Empowers Local Government to order removal of lunatic prisoners to Lunatic Asylum for remainder of term of punishment, or on Medical Certificate of the necessity of longer detention then until duly discharged by law, and on the like case Section 9 of Act XXXVI., 1858, shall apply to the person confined.

397. Relative or friend of person detained under Section 394, may obtain the custody of him on application, &c., and giving security, &c., and on condition of continued Government inspection.

Procedure in case of accused person being lunatic.

388. When any person who is charged with an offence shall appear to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an enquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District, or some other Medical Officer, and thereupon shall examine such Civil Surgeon or other Medical Officer, and shall reduce the examination into writing; and if the Magistrate shall be of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

Procedure in case of person committed before Court of Session being lunatic.

389. If any person who shall be committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

390. In any case in which an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Resumption of investigation of case.

391. Whenever any investigation or trial of a case shall be postponed under Section 388 or Section 389 of this Act, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court, or if the accused person has been released on security, may require his appearance. Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court. The surety of such person shall be bound at any time to produce him to any Officer whom the Magistrate or Court of Session may appoint to inspect him, and the certificate of such Officer shall have the same effect as the certificate of an Inspector of Gaols or the Visitors of Lunatic Asylums granted under Section 395 of this Act.

Procedure on accused appearing or being brought before Magistrate or Court of Session.

392. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it shall appear to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial, as the case may require. If it shall appear that the accused person is still of unsound mind and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 388 or Section 389 of this Act.

Procedure in case of acquittal of accused person on the ground of being lunatic.

393. Whenever any person is acquitted upon the ground that at the time at which he is charged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

Person so acquitted to be disposed of by Magistrate or Court of Session for safe custody, &c.

394. Whenever such finding shall state that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an

offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session shall seem fit, and shall report the case for the order of the Local Government. The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

Lunatics to be visited and reported on by Inspector of Gaols, &c.

395. *Clause* 1.—When any person is confined under the provisions of Section 390 or Section 394 of this Act, it shall be lawful for the Inspector of Gaols if such person is confined in a Gaol, or for the Visitors of Lunatic Asylum, or any two of them if such person is confined in a Lunatic Asylum, to visit such person in order to ascertain his state of mind; and such person shall be visited once at least in every twelve months by such Inspector of Gaols or by two of such Visitors as aforesaid, who shall make a special report as to the state of mind of such person.

If lunatic confined under Section 390 is reported capable of making his defence.

Clause 2.—If such person is confined under Section 390 of this Act, and such Inspector of Gaols or such Visitors of Lunatic Asylums as aforesaid shall report that in his or their opinion such person is capable of making his defence, such person shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of Section 392, and may receive as evidence the certificate of such Inspector of Gaols or such Visitors of Lunatic Asylums as aforesaid.

If lunatic confined under Section 394 is declared capable of being discharged.

Clause 3.—If such person shall be confined under the provisions of Section 394 of this Act, and such Inspector of Gaols or such Visitors of Lunatic Asylums as aforesaid shall certify that in his or their judgment such person may be discharged without danger of his doing injury to himself or to any other person, the Local Government shall thereupon either order his discharge or order such person to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall within six months appoint a Commission consisting of a Judicial Officer not below the grade of a Sessions Judge, and two Medical Officers whereof the Chief Medical

Officer attached to the Lunatic Asylum shall be one. The said Commission shall make formal enquiry into the state of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

Person under sentence of imprisonment, appearing to be of unsound mind, may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c.

396. Whenever it shall appear to the Local Government that any person, imprisoned by the sentence of any Court or Magistrate, is of unsound mind, the Local Government, by an order which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, there to be kept and treated as the Local Government shall direct during the remainder of the term of imprisonment ordered by the sentence, or if it shall be certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law; and when it shall appear to the Local Government by an order directed to the person having charge of him, shall remand such person to the custody from which he was removed, if then still liable to be kept in custody, or, if not, shall order him to be discharged out of custody. The provisions of Section IX. of Act XXXVI. of 1858 (*relating to Lunatic Asylums*) shall apply to persons confined in a Lunatic Asylum under this Section after the expiration of the imprisonment ordered by the sentence. The period during which a person shall be confined in a Lunatic Asylum shall be reckoned as part of the period of imprisonment ordered by the sentence.

When lunatic may be delivered over to the care and custody of a relative or friend.

397. Whenever any relative or friend of any person detained under the provisions of Section 394 of this Act is desirous that such person shall be delivered over to his care and custody, the Local Government upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that the person so detained may be delivered to such relative or friend.

Whenever such person shall be so delivered over, it shall be upon condition that he shall be subject to the inspection of such Officer as the Local Government shall think necessary to appoint, and at such times as such Government shall direct. The provisions of Section 395 shall apply to person detained under the provisions of this Section, and the certificate of the Inspecting Officer appointed under this Section shall have the same effect as a certificate of an Inspector of Gaols or the Visitors of Lunatic Asylums under the said Section.

CHAPTER XXVIII.

SUDDER COURT AS A COURT OF REFERENCE.

398, 401. Case referred to Sudder Court by Court of Session for confirmation of sentence of death shall be composed of 2 or more Judges; and (399) Sudder may confirm or alter the sentence or annul the conviction, &c., and order new trial, &c., or if trial was with Assessors may acquit the accused; or (400) in last-mentioned case may direct further inquiry, &c., to be made, and act upon the result; and (401) 2 Sudder Judges at least shall sign order for confirmation or new sentence.

Constitution of Court for hearing case referred for confirmation of sentence.

398. A case referred to a Sudder Court by a Court of Session for confirmation of a sentence of death shall be heard by a Court constituted by two or more Judges of such Sudder Court. [Supplemented by Act XV., 1862, s. 2.]

Power of Sudder Court to confirm, reverse, &c., sentence.

399. In any case so referred, the Sudder Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge. If the case shall have been tried by the Court of Session with the aid of Assessors, it shall further be competent to the Sudder Court to acquit the accused person and order his discharge.

Competence of Sudder Court to direct further enquiry, &c.

400. If the case so referred shall have been tried by the Court of Session with the aid of Assessors, it shall be competent to the Sudder Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, to direct such enquiry to be made, or

such additional evidence to be taken. The result of the further enquiry and additional evidence shall be certified to the Sudder Court, and the Sudder Court shall thereupon proceed to pass judgment of acquittal or such sentence as to the Court shall seem right.

Confirmation or new sentence must be signed by two Judges.

401. In every case so referred to the Sudder Court the confirmation of the sentence or any new sentence or order passed by the Sudder Court shall be signed by at least two Judges of the Court. [Supplemented by Act XV., 1862, s. 2.]

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

402, 403. The Sudder Court on review of the Calendar finding an erroneous sentence passed may annul it, and instruct the Court of Session as to the legal sentence, and the latter Court shall pass a new sentence; and (403) finding on such review that Court of Session has committed an error on a point of law, &c., may call for the record, &c., and pass such order as may be right.

404. Empowers Sudder Court to call for record of any trial or Judicial proceedings of any Criminal Court, in which it shall appear that there has been error in law, &c., and may pass such order as may be right.

405. Empowers Sudder Court to call for, &c., record of any case tried by Court of Session for purpose of satisfying itself as to the legality, &c., of the proceeding, &c., or reverse sentence, &c., and pass such order as it may deem right, &c.

406. Directs Sudder to certify its decision or order made on revision to inferior Court, which shall give effect thereto, &c. But Sudder Court shall not reverse verdict of Jury, nor except as herein provided, have power to alter, &c., sentence.

Revision in cases of illegal sentence.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement, or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement, or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision of trials.

403. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement, or calendar of prisoners punished without reference, it shall appear that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case has been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as the Sudder Court shall seem right.

General power of revision by the Sudder Court.

404. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a Criminal trial, in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

Sudder Court empowered to call for and examine records of Court of Session.

405. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order, and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

Proceedings of a case revised by Sudder Court to be certified to Court in which conviction was had.

406. Whenever a case shall be revised by the Sudder Court under this Chapter, the Sudder Court shall certify its decision or order to the Court in which the conviction was had or by which

the order was passed, and such Court shall thereupon make such orders as are conformable to the decision of the Sudder Court, and if necessary amend the record in accordance therewith. Provided that, in any case which shall be revised by the Sudder Court under this Chapter, it shall not be competent to the Sudder Court to reverse the verdict of the Jury, or, except as provided in this Chapter, to alter or reverse the sentence or order of the Court below.

Proviso.

CHAPTER XXX.

APPEALS.

407, 408. There shall be no appeal from judgment of acquittal; but (408) person convicted at Court of Session, on trial with Assessor, may appeal on matter of fact and law, and in matter of law only, if trial was with a Jury.

409. Gives an appeal to Court of Session against convictions before Magistrate, &c., and orders under Sections 301 or 296, &c.

410. Gives an appeal to Court of Session against conviction by Justice of the Peace under 53 George III., c. 155, s. 105, and Act. VII. of 1853, or under Sections 163—165 of this Act. After appeal writ of *certiorari* not to lie, gives *certiorari* in other cases.

411, 412. Convictions by Court of Session or Magistrate with imprisonment not exceeding one month, or fine not exceeding Rs. 50, to be final; but (412) against such convictions by Officer of inferior grade, appeal is given to Magistrate.

413. Gives appeal against conviction by Civil Court under Chapter 10 to ordinary Appellate Court, subject to rules in Sections 416—420; on petition to be presented within 30 days if to District Court, 60 days if to Sudder, but may be received later on cause shown; (415) the days to be computed from and exclusive of the days on which sentence was passed; and (416) the petition to contain copy of sentence or order appealed against.

414. No appeal to lie otherwise than as provided by Law.

415, 416. Supra.

417. Appellate Court may reject the Appeal, on perusal of petition, &c., and hearing Counsel, &c., and may call for papers, &c., from Court below.

418. Entitles persons under sentence appealed against to send the petition to the Magistrate to be forwarded.

419, 420. Empowers Appellate Court to alter or reverse the finding, &c., but not to enchance the punishment; and (420) order of the Sudder in this respect must be signed by two Judges at least.

421. Empowers Appellate Court to suspend sentence pending the appeal.

422. Empowers Appellate Court to direct further investigation to be made, the result of which to be reported.

423, 424. Finding of no offence under Section 196 of Indian Penal Code, or Section 416, or Section 197, or Section [illegible], shall not be reversed, &c., on ground that offence proved was that under Section 378 or under Section 380 or under Section 381; nor (424) finding under Section 278 or under Section 350 or under Section 351, on ground that offence proved was under Section 405, or under Section 404, or under Section 406, or under Section 407, or under Section 408.

425. Saves with reference to Sections 423, 424, the power of the Appellate Court to reduce the sentence to the proper limits according to the nature of the case.

426. No finding or sentence to be reversed, &c., on account of error, &c., in charge, &c., unless the accused is sentenced to too heavy punishment according to law, or has been prejudiced by such error, &c., and Appellate Court may reduce the punishment to legal amount.

427. Empowers Appellate Courts to annul convictions before Courts not having jurisdiction, and to direct trial before competent Court.

428. Except as is excepted in Section 495, Sentences, &c., of Appellate Court to be final.

No appeal in cases of acquittal.

497. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

498. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

Appeals from Magistrates.

499. Any person convicted on a trial held by the Magistrate of the District or other Officer exercising the powers of the Magistrate, or required by such Magistrate or other Officer under Section 293 or Section 298 of this Act to give security for good behaviour, may appeal to the Court of Session to which such Magistrate or other Officer is subordinate.

Appeals from Justices of the Peace.

500. Any person convicted and sentenced by any Justice of the Peace, exercising jurisdiction under the Statute 53, George III., c. 155, s. 105, or under Act VII. of 1862 (*to extend the jurisdiction of Magistrates under the 53 George III., c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied with force, not being*

felonies), or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard, had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari*. Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

No appeal in certain criminal cases.

411. In all cases in which a Court of Session or the Magistrate of a District or other Officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding fifty Rupees, no appeal shall be allowed.

Appeals from Officers exercising powers less than those of a Magistrate.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.

Appeals from orders under Chapter X.

413. Any person convicted by any Civil Court under Chapter X of this Act, may appeal to the Court of which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, and 421 of this Act. Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder and District Courts may admit an appeal after the time herein provided on sufficient cause shown.

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

414. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

Period for presenting petitions of appeal.

415. Petitions of appeal to the Court of Session or to any Court subordinate to the Court of Session must be presented within thirty days imme-

diately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder Court and the Court of Session may admit an appeal after the time herein provided on sufficient cause shown.

Copy of Judgment to accompany petition.

416 Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Appellate Court may reject petition of appeal.

417. It shall be competent to the Appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the Lower Court, but shall not be bound so to do.

Appeal by party in Gaol.

418. If the party appealing be in Gaol in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal, and the copy of the sentence or order appealed against, to the Magistrate or other Officer in charge of the Gaol, who shall thereupon forward the petition to the proper appellate authority.

Appellate Court may call for the proceedings of Lower Court.

419. The Appellate Court, after perusing the proceedings of the Lower Court, and after hearing the plaintiff or his counsel or agent, if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

The signature of two Judges necessary.

420. The sentence or order of the Sudder Court, modifying, amending, or reversing the sentence or order of a Court on appeal or revision, shall be signed by at least two Judges of such Sudder Court. [Supplemented by Act XV., 1862, s. 2.]

Appellate Court may suspend sentence pending appeal, and release defendant on bail.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

Appellate Court may direct further enquiry, &c.

422. In any case in which an appeal has been allowed, it shall be competent to the Appellate Court, if it think further enquiry of additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, to direct such enquiry to be made and additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to pass such judgment, sentence, or order as to such Court shall seem right.

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by a carrier, wharfinger, or warehouse-keeper, under Section 407 of the said Code, or of criminal breach of trust as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, of the offence of theft in a building, tent, or vessel, under Section 380 of the said Code, or the offence of theft, as a clerk or servant, of property in the possession of his master, under Section 381 of the said Code.

Finding of theft not reversible on the ground of the offence proved being dishonest misappropriation.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building tent or vessel under the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on repeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the offence of such dishonest misappropriation

under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the offence of criminal breach of trust as a carrier wharfinger or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of powers of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case, within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the accused person shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect; and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Appellate Court may reduce punishment.

Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction.

427. When a Court subordinate to a Court of Session shall have convicted a person of an offence not triable by such Court, it will be competent to the Appellate Court to annul the conviction and sentence of such Court, and to direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate upon appeal shall be final.

CHAPTER XXXI.

GENERAL RULES.

429, 430. Every sentence or final order of Criminal Court, together with the reasons of same, shall be written in the vernacular language of the Judge, and dated, &c.; and translation besides be made and recorded, if it is not the ordinary language of the Court; (430) Judge may use English, though not his vernacular, if he purposes.

431. Interpreter when employed to be sworn.

432. Entitles accused as of right to be defended by Counsel, &c.

433. Convicts under age of sixteen sentenced to imprisonment may be confined in reformatory, &c., and there be subject to rules laid down by Government.

434. Court of Session and Magistrate may call for and examine the records of Subordinate Courts, and if found contrary to law, may be referred to Sudder for orders thereon, which Court alone may alter, &c., except on appeal.

435, 436. Empowers Court of Session to order commitment of accused who has been discharged by Magistrate if offence was not triable by the latter; and to order enquiry by Magistrate, &c.; and (436) to order bail to be taken, or amount produced.

437. Empowers Criminal Court to allow deposit of Government Paper in lieu of bail.

438. Court of Session may order payment of expense of complainant or witness.

439. No trial, &c., to be set aside nor judgment reversed, &c., for irregularity, &c., unless it has occasioned a failure of justice.

440. Entitles any party to a case to copy of sentence, &c., at his expense, unless he be in confinement, &c., and wants it for an appeal, or unless the Court orders it free of expense.

441, 442. Saves the jurisdiction and procedure of the Police authorities of the Presidency Towns and Straits' Settlements, except as expressly altered; and (442) of landholders having special Police powers in Bombay, of Heads of Villages in Madras, Village Police Officers in Bombay, Officers in Madras and Bombay, appointed for trial of petty offences in Military Cantonments in Madras and Bombay.

443. Empowers the Sudder to make general practice rules, and prescribe forms, and for book-keeping, &c., but not to be inconsistent with the Act.

444. This Code of Procedure to be followed in miscellaneous cases, &c.

445. Act to come into operation in Bengal, Madras, and Bombay, 1st January, 1862, but not in Non-Regulation parts till extended by order of Governor General in Council. Appendix, Form A. Summons, B. Warrant, C. Commitment, D. Bond to keep the Peace, E. Recognizance of Prosecutors and Witnesses, F. Bond for good behaviour.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular language of the presiding Officer, and shall be dated and signed by such Officer at the time of making or passing the same, and the original shall be filed with the record or proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

In what language sentence to be written.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

When it may be written in English.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and such interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

Employment of interpreter.

432. Every person charged before any Criminal Court with an offence may of right be defended by Counsel or authorized agent.

Right of accused to be defended by Counsel.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of being imprisoned in the Criminal Gaol, shall be confined in any reformatory which may be recognized by the Local Government as a fit place for confinement, in which there may be means of suitable discipline, and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Confinement of youthful offenders in reformatories.

434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any subordinate Court except upon appeal by parties concerned, duly made according to the provisions of Chapter XXX. of this Act.

Powers of Court of Session and Magistrate to regulate the proceedings of subordinate Courts.

435. In case of offences not triable by the Magistrate, the Court of Session may order the commitment to the Court of Session of any accused person who may have been discharged by the Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which the Magistrate may have dismissed without enquiry.

When Court of Session may order commitment of party discharged by Magistrate.

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

Power of Court of Session to direct bail.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government Promissory Notes to such amount as such Court may fix in lieu of such bail.

Deposit may be made instead of bail.

438. It shall be lawful for the Court of Session in any case in which it shall appear proper, to order payment by or on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Expenses of prosecutors and witnesses.

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceed-

No trial, &c., to be set aside for irregularity of procedure.

ings of the trial, unless such irregularity have occasioned a failure of justice.

Copy of sentence or order to be furnished on application.

440. A copy of final sentence or order passed by any Criminal Court shall be furnished without delay on the application of any party to the case in which such sentence or order was passed. Such copy shall be made at the expense of the party applying for it, unless such party is in confinement under the sentence or order, and is desirous of appealing against the same, or unless the Court shall for any special reason see fit to grant such copy free of expense.

Act not to take effect in Presidency Towns or Straits' Settlement.

441. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Chief Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, except so far as this Act expressly provides for the same.

Saving of Jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort St. George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly authorized and appointed under laws in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of petty offences in Military Bazaars at Cantonments and Stations occupied by the Troops of those Presidencies respectively.

Of Officers exercising jurisdiction over petty offences in Military Cantonments.

Sudder Court to make general rules for regulating proceedings, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries, and

accounts to be kept in such Courts, and for the preparation and transmissions of any calendars or statements to be prepared and submitted by such Courts, and from time to time to alter any such rule or form. Provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Court under this Section shall be published in the Official Gazette. [Supplemented by Act XV., 1862.]

Procedure of this Act to be followed in miscellaneous criminal cases and proceedings.

444. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which, after the passing of this Act shall be instituted in any Court.

Commencement and operation of Act.

445. This Act shall come into operation in the Presidencies of Bengal, Madras, and Bombay on the 1st day of January, 1862, but shall not take effect in any part of the Territories in British India not subject to the General Regulations of Bengal, Madras, or Bombay, until the same shall be extended thereto by the Governor General of India in Council, or by the Local Government to which such Territory is subordinate, and until such extension shall have been notified in the Gazette.

APPENDIX OF FORMS.

A.

FORM OF SUMMONS. (*Section* 69.)

To A. B., of

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*). You are hereby required to appear in person or by authorized Agent, as the case may be, before the [Magistrate] of on the day of Herein fail not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT. (*Section* 76.)

To (*name and designation of the person or persons who are to execute the warrant.*)

Whereas , of stands charged with the offence of (*state the offence*): You are hereby directed to apprehend the said and to produce him before me.

Herein fail not.

(*Signature and Seal.*)

This warrant may be endorsed as follows:—

If the said shall give bail, himself in the sum of with one surety in the sum of , (or two sureties each in the sum of) to appear before me on the day of he may be released.

, Dated (*Signature.*)

C.

FORM OF WARRANT OF COMMITMENT.

(*Section* 222.)

To Gaoler of

Whereas of is charged with (*state the offence in respect of which the prisoner is charged, and the authority of the Committing Officer*): You are hereby required to receive the said into your custody in the said Gaol of and him there safely to keep until he shall be thence delivered by due course of law.

Dated the day of

D.

FORM OF BOND TO KEEP THE PEACE.

(*Section* 284.)

Whereas I, inhabitant of have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said

that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

(*Sections* 158 *and* 232.)

I, of do hereby bind myself to appear at in the Court of at o'clock on the day of next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or to give evidence) in the matter of a charge of against one A. B.; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of

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F.

FORM OF BOND FOR GOOD BEHAVIOUR. (*Section* 300.)

Whereas I Inhabitant of have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

SCHEDULE.—(*Referred to in Section* 22 *and elsewhere in this Act.*) [See Note at end.]

Explanatory Notes—1st.—The entries in the 2nd and 6th Columns of the Schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding Sections of the Indian Penal Code, or even as abstracts of those Sections, but merely as references to the subject of the Section, the number of which is given in the 1st Column.

2nd.—The term, "Whether bailable or not," in Column 5, is to be taken in connection with the provisions of Sections 212 and 213 of this Code.

3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in Column 7. For example, a Court of Session may try an offence entered in Column 7 as triable by a Magistrate.

4th.—Any offence which is triable by an Officer exercising the powers of a Magistrate, may be tried by a Subordinate Judge or a Principal Sudder Ameen in the Presidency of Fort St. George.

5th.—The words "Magistrate of the District," as used in Column 7, shall include any Officer exercising the powers of a Magistrate.

6th.—The words "any Magistrate," as used in Column 7, shall include any Subordinate Magistrate of the 1st or 2nd Class.

7th.—In the Territories in British India to which the General Regulations of Bengal, Madras, and Bombay do not extend, the powers given by this Act shall be exercised by such Officers as the Local Government of those Territories, respectively, shall appoint.

CHAPTER V.—OF ABETMENT.

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.

CHAPTER V.—OF ABETMENT.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
110	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto	Ditto	Ditto	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto	Ditto	Ditto	The same punishment as for the offence abetted.	Ditto.

115	Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	Ditto	Ditto	Imprisonment extending to ½ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence.	Ditto	Ditto	Ditto	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER V.—OF ABETMENT.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
	If the offence be not committed ...	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable ...	Imprisonment of either description for 3 years and fine.	By the Court by which the offence abetted is triable.
119	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 10 years.	Ditto.

	If the offence be not committed ...	Ditto	Ditto	According as the offence abetted is bailable or not.	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{4}$ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto	Ditto	Ditto	Imprisonment extending to $\frac{1}{8}$ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
	CHAPTER VI.—OFFENCES AGAINST THE STATE.					
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable ...	Death, or transportation for life, and forfeiture of property.	Court of Session.

CHAPTER VI.—OFFENCES AGAINST THE STATE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years; and forfeiture of property.	Court of Session.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.

126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in Sections 125 and 126	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing Prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering Prisoner of State or War in his custody to escape.	Ditto	Ditto	Bailable	Simple imprisonment for 3 years, and fine.	Ditto.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the re-capture of such prisoner.	Ditto	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny or attempting to seduce an Officer, Soldier, or Sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	May arrest without warrant.	Warrant	Not bailable ...	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
133	Abetment of an assault by an Officer, Soldier, or Sailor, on his Superior Officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
135	Abetment of the desertion of an Officer, Soldier, or Sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

136	Harbouring an Officer, Soldier, or Sailor who has deserted.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 Rs. ...	Ditto.
138	Abetment of act of insubordination by an Officer, Soldier, or Sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a Soldier, with intent that it may be believed that he is such a Soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 Rs., or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being a member of an unlawful assembly.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	May arrest without warrant	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
147	Rioting	Ditto	Ditto	Ditto.	Ditto...	Ditto.
148	Rioting, armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence, or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable, or not.	The same as for the offence.	By the Court by which the offence is triable.

150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto ... ...
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 1,000 Rs...	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
155	Person for whose benefit, or on whose behalf a riot takes place, not using all lawful means to prevent it.	Shall not arrest without warrant.	Summons	Bailable	Fine	Magistrate of the District or Subordinate Magistrate of 1st Class.
156	Agent of owner or occupier, for whose benefit a riot is committed, not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto...	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto...	Ditto.

	Or to go armed	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 1 month, or fine of 100 Rs., or both.	Any Magistrate.
	CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.					
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Ditto	Ditto	Ditto	Ditto...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
164	Abetment by public servant of the offences defined in the last two preceding Sections with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Shall not arrest without warrant.	Summons... ...	Bailable	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
168	Public servant unlawfully engaging in trade.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.

169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant... ...	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 200 Rs., or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Magistrate of the District or Subordinate Magistrate of 1st Class.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Ditto.

175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Court in which the offence is committed, subject to the provisions of Chapter X. of this Code; or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Ditto.
167	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Magistrate of the District.
	If the notice or information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
	If the information required respects the commission of an offence, &c.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 Rs., or both.	Court in which the offence is committed, subject to the provisions of Chapter X. of this Code; or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
179	Being legally bound to state the truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.

180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 Rs., or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of District.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto..	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 Rs., or both.	Ditto.
185	Bidding by a person under a legal incapacity to purchase it for property at a lawful authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 Rs., or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
186	Obstructing public servant in discharge of his public functions.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 Rs., or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the preventin of offences, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 Rs., or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 Rs., or both.	Ditto.

	If such disobedience causes danger to human life, health, or safety, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
	CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.					
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable ...	Transportation for life or rigorous imprisonment for 10 years, and fine.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
	If innocent person be thereby convicted and executed.	Shall not arrest without warrant.	Warrant	Not bailable ...	Death or as above.	Court of Session.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto	Ditto	Ditto	The same as for the offence.	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	Ditto	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Ditto.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto	Ditto.

199	False statement made in any declaration which is by law received as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
	If punishable with transportation, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for ¼th of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons... ...	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
203	Giving false information respecting an offence committed.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Magistrate of the District.
209	False claim in a Court of Justice ...	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, and fine.	Court of Session.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto	Ditto	Imprisonment for ¼th of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.

	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Imprisonment for ¼th of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Imprisonment for ¼th of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence is triable.
215	Taking gift to help to recover moveable property, of which a person has been deprived by an offence without causing apprehension of offender.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto	Ditto	Ditto	Imprisonment for ¼th of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class only.

218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto...	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the District or Subordinate Magistrate of 1st Class.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Shall not arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto...	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If charged with a capital offence ...	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto...	Ditto.
	If under sentence of death	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
226	Unlawful return from transportation.	Ditto	Ditto	Ditto	Transportation for life, and fine, and rigorous imprisonment for 3 years before transportation.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons	Not bailable ...	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto	Ditto	Bailable	Simple imprisonment for six months, or fine of 1,000 Rupees, or both.	Court in which the offence is committed, subject to the provisions contained in Chapter X. of this Code.
229	Personation of a juror or assessor...	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting or performing any part of the process of counterfeiting Coin.	May arrest without warrant	Warrant	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
235	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
	If Queen's Coin	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
236	Abetting in India the counterfeiting out of British India of Coin.	May arrest without warrant.	Warrant	Not bailable ...	The punishment provided for abetting the counterfeiting of such Coin within British India.	Court of Session.
237	Import or Export of counterfeit Coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
238	Import or Export of counterfeits of the Queen's Coin, knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
239	Having any counterfeit Coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.

240	The same with respect to the Queen's Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit Coin as genuine which when first possessed the deliverer did not know to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin counterfeited, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
242	Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session.
243	Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
244	Persons employed in a Mint causing Coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto	Ditto...	Ditto.
245	Unlawfully taking from a Mint any Coining instrument.	Ditto	Ditto	Ditto	Ditto...	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any Coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—(*Continued.*)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
247	Fraudulently diminishing the weight or altering the composition of the Queen's Coin.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session.
248	Altering appearance of any Coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
249	Altering appearance of the Queen's Coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
250	Delivery to another of Coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.

251	Delivery of Queen's Coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered Coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Ditto.
253	Possession of Queen's Coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
254	Delivery to another of Coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin.	Magistrate of the District or Subordinate Magistrate of 1st Class.
255	Counterfeiting a Government Stamp.	Ditto	Ditto	Bailable	Imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government Stamp.	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—(*Continued.*)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
258	Sale of counterfeit Government Stamp.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
259	Having possession of a counterfeit Government Stamp.	Ditto	Ditto	Ditto	Ditto...	Ditto.
260	Using as genuine a Government Stamp known to be counterfeit.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government Stamp, or removing from a document a Stamp used for it with intent to cause wrongful loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both.	Ditto.

262	Using a Government Stamp known to have been before used.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
263	Erasure of mark denoting that Stamp has been used.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine or both.	Court of Session.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District or Subordinate Magistrate of 1st Class.
265	Fraudulent use of false weight or measure.	Ditto	Ditto	Ditto	Ditto...	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto...	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code	7. By what Court triable.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Ditto.
273	Selling any food or drink as food and drink for man, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto...	Ditto.

274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto...	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation, known to have been adulterated.	Ditto	Ditto	Ditto	Ditto...	Ditto.
276	Knowingly selling or issuing from a dispensary, any drug or medical preparation, as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto...	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 Rs., or both.	Ditto.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 Rs. ...	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto...	Ditto.
281	Exhibition of a false light, mark, or buoy.	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.

CH. XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, & MORALS.—(Continued.)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 Rs. ..	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto...	Ditto.
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto	Ditto...	Ditto.

287	So dealing with any machinery ...	Shall not arrest without warrant.	Ditto	Ditto	Ditto...	Ditto.
288	A person omitting to guard against probable danger to human life, by the fall of any building, over which he has a right entitling him to pull it down or repair it.	May arrest without warrant.	Ditto	Ditto	Ditto...	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	Ditto	Ditto	Ditto	Ditto...	Ditto.
290	Committing a public nuisance ...	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 Rs. ...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c. ...	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto...	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate of the District.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto...	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without warrant.	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences Affecting Life.

302	Murder	May arrest without warrant.	Warrant	Not bailable ...	Death, transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto	Ditto	Ditto	Death	Ditto.
304	Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment for 10 years and fine.	Ditto.
306	Abetting the commission of suicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
307	Attempt to murder	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years or fine, or both.	Ditto.
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, and fine.	Magistrate of the District.

311	Being a thug	Ditto	Ditto	Not bailable ...	Transportation for life, and fine.	Court of Session.
	Of the causing of Miscarriage; of injuries to unborn children; of the exposure of infants; and of the concealment of births.					
312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

Of the causing of Miscarriage; of injuries to unborn children; of the exposure of infants; and of the concealment of birth.

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Shall not arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years, or fine, or both.	Court of Session.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto	Bailable	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

Of Hurt.

323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 Rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
325	Voluntarily causing grievous hurt...	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
327	Voluntarily causing hurt to extort property, or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
328	Administering stupifying drug with intent to cause hurt.	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

Of Hurt.—(Continued.)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

333	Voluntarily causing grievous hurt to deter public servant from his duty.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 500 Rs., or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto	Ditto	Ditto	Imprisonment of either description for 4 years, or fine of 2,000 Rs., or both.	Court of Session, or Magistrate of the District.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 Rs., or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 Rs., or both.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

Of Wrongful Restraint and Wrongful Confinement.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
341	Wrongfully restraining any person.	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 Rs., or both.	Any Magistrate.
342	Wrongfully confining any person...	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
343	Wrongfully confining for three or more days.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.

345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, in addition to imprisonment under any other Section.	Court of Session.
346	Wrongful confinement in secret ...	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 Rs., or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

Of Criminal Force and Assault.—(Continued.)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
355	Assault or criminal force with intent to dishonor a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Ditto...	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable ...	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 Rs., or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 Rs., or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and Forced Labor.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
364	Kidnapping or abducting in order to murder.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage, or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto...	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.—(*Continued.*)

Of Kidnapping, Forcible Abduction, Slavery, and Forced Labor.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto...	Ditto.
374	Unlawful compulsory labor	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

376	Rape...	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Unnatural Offences.

377	Unnatural offences	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft...	May arrest without warrant.	Warrant	Not bailable .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District. [See Act 33, 1861.]
380	Theft in a building, tent, or vessel.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Theft.—(Continued.)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
381	Theft by clerk or servant of property in possession of master or employer.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Court of Session.

Of Extortion.

384	Extortion	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.

385	Putting or attempting to put in fear of injury, in order to commit extortion.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto	Ditto	Ditto	Transportation for life.	Ditto.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto	Ditto	Ditto	Transportation for life.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Robbery and Dacoity.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
392	Robbery	May arrest without warrant.	Warrant	Not bailable ...	Rigorous imprisonment for 10 years, and fine.	Court of Session. [Amended by Act 8, 1866, s. 2.]
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Ditto	Ditto.

396	Murder in dacoity	May arrest without warrant.	Warrant	Not bailable ...	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto...	Ditto.
399	Making preparation to commit dacoity.	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years, and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Criminal Misappropriation of Property.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto.	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If by clerk or person employed by deceased.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

	Of Criminal Breach of Trust.					
406	Criminal breach of trust	Shall not arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
	Of the Receiving of Stolen Property.					
411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of the Receiving of Stolen Property.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, or fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
418	Cheating a person whose interest the offender was bound, either by law or legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto...	Ditto ... ...
420	Cheating and thereby dishonestly inducing delivery of property, or the altering or destroying of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto	Ditto	Ditto	Ditto...	Ditto.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Fraudulent Deeds and Dispositions of Property.—(Continued.)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto...	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.

427	Mischief, and thereby causing damage to the amount of 50 Rs. or upwards.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
428	Mischief by killing, poisoning, maiming, or rendering useless, any animal of the value of 10 Rs. or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming, or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 Rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river, or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto...	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine or both.	Court of Session.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Mischief.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 Rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.

438	The mischief described in the last Section when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Ditto.
			Of Criminal Trespass.			
447	Criminal trespass	May arrest without warrant.	Summons... ..	Bailable	Imprisonment of either description for 3 months, or fine of 500 Rs., or both.	Any Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 Rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Criminal Trespass.—(Continued.)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years and fine.	Court of Session.
451	House trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, and fine.	Magistrate of the District or Subordinate Magistrate of 1st Class.
	If the offence is theft	Ditto	Ditto	Not Bailable ..	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto...	Ditto.

453	Lurking house-trespass or house-breaking.	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 2 years, and fine.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto...	Court of Session.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District or Subordinate Magistrate of 1st Class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, and fine.	Court of Session, or Magistrate of the District.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—(*Continued.*)

Of Criminal Trespass.—(Continued.)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code	7. By what Court triable.
	If the offence is theft	May arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 14 years, and fine.	Court of Session, or Magistrate the District.
458	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c.	Ditto	Ditto	Ditto	Ditto...	Court of Session.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto	Ditto	Ditto	Ditto...	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
	CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.					
465	Forgery	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
468	Forgery for the purpose of cheating	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, and fine.	Court of Session.
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Punishment for forgery.	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Ditto	Ditto	Not bailable ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto

474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Shall not arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If the document is a valuable security or will.	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
	Of Trade and Property-Marks.					
482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District or Subordinate Magistrate of 1st Class.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.—(*Continued.*)

Of Trade and Property-Marks.—(Continued.)

1.	2.	3.	4.	5.	6.	7.
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Summons	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Sub-ordinate Magistrate of 1st Class.

487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto...	Ditto.
489	Removing, destroying, or defacing any property mark with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons... ...	Bailable	Imprisonment of either description for 1 month, or fine of 100 Rs., or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 Rs., or both	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employée is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years, and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Ditto.

497	Adultery	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 5 years, or fine, or both.	Court of Session.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
	CHAPTER XXI.—OF DEFAMATION.					
500	Defamation	Shall not arrest without warrant.	Warrant	Bailable	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto	Ditto	Ditto...	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	Ditto	Ditto	Ditto...	Ditto.
	CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.					
504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto	Ditto	Not Bailable ...	Ditto...	Magistrate of the District.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.—(*Continued.*)

1. Section.	2. Offence.	3. Whether the Police may arrest without warrant or not.	4. Whether a warrant or a summons shall ordinarily issue in the first instance.	5. Whether bailable or not.	6. Punishment under the Indian Penal Code.	7. By what Court triable.
506	Criminal intimidation	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
507	Criminal intimidation by anonymous communication, or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above Section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District.

509	Uttering any word or making any gesture intending to insult the modesty of a woman.	Shall not arrest without warrant.	Warrant	Bailable	Simple imprisonment for one year, or fine, or both.	Magistrate of the District.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 Rs., or both.	Any Magistrate.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

Column 7 of this Schedule has been amended by Act XXXIII., 1861, as respects its references to Sections 379 and 457 of the Indian Penal Code; and by Act VIII., 1866, as respects its references to Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448, and 451, of the Indian Penal Code. The other amendments of this Act have been indicated by a note to the amended Sections.

MALACCA.—LAND TENURE.

ACT No. XXVI. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites doubts as to, and declares the rights of, Her Majesty in certain lands in Malacca.

1. Vests in Her Majesty the lands surrendered on conditions in 1828 and 1829, by the proprietors to the East India Company (subject to the rights of under-tenants and cultivators).

2. Confirms the annuities conditioned for on the surrender, and makes them payable by the Government of India, which may be commuted for a fixed sum. In case of the cessation of British Rule, not to revive the right to the lands, but also not to prejudice the right to the annuity.

3. Cultivators and occupiers under a prescriptive title of lands in the first Section mentioned, and of lands in Naning, to pay a tithe of the produce, or an agreed commutation for it, and all other cultivators and under-tenants to be liable to assessment under Act XVI., 1839, Section 2.

4, 5. Empowers the Governor of the Straits' Settlements to commute annual tax or rent for a fixed sum; and (5) to grant perpetual or other leases subject to quit-rent or otherwise at his discretion.

6. Annuls claims to forest, waste, and unreclaimed land, on ground of prescriptive right or possession; but occupier of cultivated land may engage for forest, and other unreclaimed land next or within his own.

7, 8. Authorizes Government to cause a general survey of land, and to employ Surveyors with the necessary powers for the purpose; and (8) makes obligatory the summons of such Surveyors.

9, 10. Empowers Surveyors to set out boundaries, and in case of dispute as to possessing title, to decide the same; (10) the award on which may be brought before the Malacca Court within 2 months, and be confirmed, modified, or set aside.

11. Act X., 1837, Sections 7 to 10, and Sections 14, 15, to be read as part of this Act.

12. Authority of Governor to be subject to instructions of the Governor General of India in Council.

13. This Act not to be construed as warranting any exemption from Municipal Taxes under Acts XXV. and XXVII., 1856.

An Act to regulate the occupation of land in the Settlement of Malacca.

Preamble.

Whereas doubts have arisen as to the power of Her Majesty to convey in fee simple in the District of Malacca (within the Settlement of Malacca), the land in which certain rights and interests were surrendered to the Honorable the East India Company in the years 1828 and 1829,

and whereas it is expedient to remove such doubts, and to declare the rights of Her Majesty in respect to such lands, and otherwise to amend the law relating to the occupation of land situate within the Settlement of Malacca, it is enacted as follows:

Certain lands surrendered to the East India Company declared to be vested in the Queen.

I. The lands in the District of Malacca in which certain rights and interests were surrendered to the East India Company in the years 1828 and 1829, on condition that a certain amount then settled and agreed upon should be paid by the Government annually, so long as the British rule in the said District continued, to every person making such surrender, and on condition also that every such person in the event of the cessation of the British rule in the said District should resume the rights then conditionally surrendered to the British Government, are hereby declared to be vested in fee simple in Her Majesty the Queen, her Heirs, and Successors (saving always any rights or interests lawfully vested in any under-tenants and cultivators holding or occupying any portion of such lands, and any conveyance which after the passing of this Act shall be made by Her Majesty, her Heirs, and Successors of any of the said lands in fee simple or otherwise (not inconsistent with the rights or interests aforesaid of such under-tenants and cultivators) shall be good and valid for all intents and purposes whatsoever.

Payment of annuities to the grantees or proprietors of the surrendered estates.

II. The annuities stipulated to be paid to the persons who surrendered the rights and interests aforesaid, shall be paid as a perpetual annuity to the said persons or their heirs or representatives by the Government of India, but it shall be lawful for the Governor General of India in Council to commute the perpetual annuity payable to any such annuitant, for such sum and on such terms as may with such annuitant be agreed upon in full discharge of the perpetual annuity so commuted and of all rights or obligations whatsoever connected therewith. In the event of a cessation of British rule in the said District, nothing in this Section shall interfere with the claim of any person then enjoying an uncommuted annuity under this Section, to a money compensation from the Government equal to the then value of any right or interest in land surrendered by him as described in the last Section, which but for the passing of this Act would then

have reverted to him. No such surrendered right or interest in such land shall then revert to or revive in any such annuitant, nor shall any such annuitant have a claim in connection with any such right or interest to aught but a money compensation from the Government.

Cultivators and tenants subject to payment to Government of one-tenth of produce.

III. All cultivators and resident tenants of the lands referred to in the first Section of this Act, as well as in the District of Naning, who hold their lands by prescription, are hereby declared to be and shall be subject to a payment of one-tenth part of the produce thereof to Government; such payment to be made in kind or in the form of a sum of money fixed in commutation of the payment in kind; and all other cultivators and under-tenants who now occupy or hold or shall occupy or hold any of such lands as aforesaid, are hereby declared to have been and shall be liable, as directed in Section II. of Act XVI. of 1839 (*relating to Prince of Wales' Island, Singapore, and Malacca*), to be assessed in such manner, at such rate, and under such conditions as the Resident Councillor of Malacca, with the authority of the Governor of the Settlement of Prince of Wales' Island, Singapore, and Malacca, may determine. Nothing in this Section shall be taken to effect any engagement entered into for a specific time or upon specific conditions between any cultivator or tenant and the Resident Councillor or other person acting on behalf of the Local Government during the pendency thereof.

Proviso.

Commutation of a fixed sum for an annual payment.

IV. It shall be lawful for the Governor of Prince of Wales' Island, Singapore, and Malacca to commute the payment, whether in kind or money, to which any person is liable under the last preceding Section, for a sum to be fixed at the discretion of the said Governor and for an annual quit-rent, and on the payment of the sum and quit-rent so fixed upon, the lands in respect of which such commutation is made shall be held subject to the terms of such commutation, and free from liability to the payment provided for in the last preceding Section.

Grant of leases.

V. It shall be lawful for the Governor aforesaid, any provision in Section V. of the said Act XVI. of 1839 to the contrary notwithstanding, to direct any

lease, granted or to be granted under that Section, to be granted in perpetuity or for such term as to such Governor may seem proper, and, subject to such quit-rent as may be agreed upon, to transfer to, and vest absolutely in, any person or persons any portion of the waste or forest land situated within the lands aforesaid or within the District of Naning, on the payment of a sum fixed as provided in the last foregoing Section, free of any liability for the payment of annual rent.

Claims to waste lands.

VI. It shall not be competent to any party to claim, on the ground of prescriptive right or of possession, any forest, waste, or other uncultivated land situated within the lands, grants, or estates aforesaid or within the District of Naning, unless the same, having been before cultivated or occupied for some beneficial purpose, shall have fallen out of cultivation or use within three years from the passing of this Act; provided that any tenant, cultivator, or other occupier of cultivated land within the lands or District aforesaid, shall be permitted to engage for unoccupied, forest, waste, or other uncultivated land situated within or next adjoining the boundaries of the cultivated land held or occupied by him, to the extent of one-fourth thereof; and any order made in this matter by any person empowered in that behalf by the Governor of the Settlement of Prince of Wales' Island, Singapore, and Malacca shall be final, subject only to revision by such Governor in any case in which he may think revision called for.

Survey or measurement of land.

VII. It shall be lawful for the Governor aforesaid to cause a survey or measurement to be made of all the land of the Settlement of Malacca and of the District of Naning or any portion thereof, at such time and by one or more persons as he may direct, and any person so empowered by the Governor of the Settlement of Prince of Wales' Island, Singapore, and Malacca may require by a summons under his hand any person resident within such Settlement or District to attend before him, and if necessary to produce any document relating to the right to any land or interest in land situated within such Settlement or District; and the person empowered as aforesaid may examine upon oath, or solemn affirmation having the force of an oath, any person so summoned touching the right to any such land or interest in such land.

Penalty for non-attendance when summoned to a measurement.

VIII. If any person, resident within the said Settlement of Malacca, who shall be required by a summons issued under the last preceding Section to appear at a certain place and time for the purpose of attending at a survey or measurement under the said Section, or to produce before any person empowered under the said Section any such document as is mentioned in the said Section, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend without the permission of the person so empowered, or intentionally omits to produce such document before such person, he shall, on summary conviction before any Criminal Court within whose jurisdiction the offence is committed, be liable to be punished with simple imprisonment in the Civil Gaol for a term that may extend to one month, or with fine that may extend to one hundred Rupees, or with both.

Adjudication of disputed possession.

IX. Any person so empowered as aforesaid may define by such marks as he may think fit the boundaries of any land held or occupied by any tenant, cultivator, or other occupier; and if, in the course of survey or measurement or in the course of making any settlement, transfer, or assignment, any dispute shall arise as to the right of possession of any land, between two or more persons claiming to possess the same as tenants, cultivators, or occupiers, or between one or more such persons, and any grantee or proprietor of any lands in the Settlement of Malacca not surrendered in the manner recited in Section I. of this Act, or any person holding under such grantee or proprietor, any person empowered as aforesaid shall, after enquiry, make an order in favor of the party who may appear to have the best title, and shall put in possession the party in whose favor an award is so made.

Effect of award under preceding Section.

X. Any award made under the last foregoing Section shall be final unless within two months from the date of the award any of the parties thereto, shall move the Court of Judicature of Malacca to set it aside, and such Court may on such motion confirm, set aside, or modify such award.

Construction.

XI. Sections VII., VIII., IX., X., XIV., and XV. of Act X. of 1837 (*relating to claims to lands in Prince*

of Wales' Island, Singapore, and Malacca), shall so far as applicable, be read as part of this Act.

Governor to be guided by instructions from the Government of India.

XII. The Governor of the Settlement of Prince of Wales' Island, Singapore, and Malacca, in the exercise of any authority vested in him by this Act, shall be guided by such instructions as he shall from time to time receive from the Governor General of India in Council.

No exemption to be granted from Municipal rates.

XIII. Nothing in this Act shall be held to warrant any exemption being granted or allowed in favor of any owner or occupier of land in respect of the Municipal rates and taxes levied under Act XXV. of 1856 (*to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), or Act XXVII. of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).

PORT BLAIR AND THE ANDAMANS.

ACT No. XXVII. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites that Port Blair is a Penal Settlement, and expediency of providing for the admission of other than convicts, and for the Government of the Andamans.

1. Declares that all land in Port Blair and the Andamans is vested in Her Majesty, and prohibits the transfer and acquisition of any except by instrument in writing by the Superintendent, and authorizes ejectment of any person occupying land under any other title.

2. Empowers the Governor General of India in Council to appoint Officers for management of the land, and realization of the revenue, rent, &c., who shall be under the direction of the Government of India.

3—5. Vests the administration of justice in Port Blair and the Andamans in Officers appointed by the Governor General of India in Council, who shall be under the direction of the Government of India; and (4) empowers the Governor General of India in Council to declare what orders, &c., shall be final, and what shall be appealable, and to whom; and (5) to give any Court

jurisdiction to modify, &c., Criminal sentences; and provides that no sentence of death in the Andamans shall be carried out without confirmation by the Governor General of India in Council, or by some Court authorized to confirm.

6—8. Prohibits the anchoring of any vessel, and the landing of any person or goods, either on the Coast or at Port Blair, except at place declared a port under Act XXII., 1855, under a penalty of 1,000 Rupees, on the Master of vessel, and (7) of 500 Rupees on any other person and forfeiture of goods; but (8) these *prohibitions and penalties* not to extend to vessels of Her Majesty, or vessels used in the public service, or to infringements from stress of weather or unavoidable circumstances.

9—11. Enjoins on Masters of vessels the delivery of list of crew and passengers, and manifest of cargo, within 24 hours after arrival, under penalty of 500 Rupees; and (10) prohibits the landing of any person without license, &c., under like penalty; and (11) the landing of goods, except under written permission, under penalty of forfeiture.

12. Enjoins on Master the delivery, 24 hours before departure, of list of crew and passengers about to sail, under penalty of 1,000 Rupees, and prohibits taking any person on board after list sent in.

13. Requires master of vessel to permit search of the vessel, and to produce any person on board for inspection by Officer.

14. Master of vessel, &c., wilfully receiving on board any convict undergoing sentence, for the purpose of conveying him away, without authority, to be liable to a penalty besides conviction under Penal Code.

15. Prohibits residence of any person beyond one month, or after the departure of the vessel by which he came, except by license, subject to penalty, and authorizes his deportation, &c.

16. Empowers the Governor General of India in Council to determine the conditions of license to reside, which shall be inserted in the license.

17. Authorizes the adjudication of penalties, &c., under this Act, by any Officer exercising the powers of a Magistrate, and the levy of penalties by distress and sale of goods, tackle of vessel; and in default of realization, offender may be imprisoned one month in Civil Gaol.

An Act to regulate the administration of Port Blair and other Settlements in the Andaman Islands.

Preamble.

Whereas the Settlement of Port Blair, including the territory thereto attached, within the Andaman Group of Islands, is occupied as a Penal Settlement for convicts sentenced by the Courts of British India to transportation, and it is expedient to provide for the admission and residence of other persons than convicts within the said Settlement; and whereas it is expedient to provide in like manner for any other Settlements that may be formed in the said

Islands, as well as for the occupation of land and the general administration of such Settlements, it is enacted as follows:

Land vested absolutely in Government.

I. The land of the Settlement of Port Blair and of any other Settlement that may hereafter be formed by the Government of India in the Andaman Group of Islands is vested absolutely in Her Majesty the Queen, and such land shall not be sold, leased, or otherwise transferred to or be acquired by any person except by and through an instrument in writing executed by the Superintendent of the Settlement or such other authority as the Governor General of India in Council may appoint, and it shall be competent to such Superintendent or other authority to eject any person from any land occupied or in any way possessed by such person which he shall not have acquired in the manner prescribed in this Section.

Appointment of Officers to superintend management of land, &c.

II. The Governor General of India in Council may appoint one or more Officers to superintend the management of the land of the Settlement of Port Blair and of any other Settlement as aforesaid, and the realization of any Revenue, rent or other dues, that may be payable on account of such land; and any Officer so appointed shall, in the matters aforesaid, be subject to the direction and control of the Governor General of India in Council, and be guided by such instructions as the Governor General of India in Council may from time to time issue.

Administration of Civil and Criminal justice.

III. The administration of Civil and Criminal justice within the Settlement of Port Blair and of any other Settlement as aforesaid, shall be vested in such Officer or Officers as the Governor General of India in Council may, for the purpose of tribunals of first instance or of reference and appeal, appoint, and the Officer or Officers so appointed shall, in matters aforesaid, be subject to the direction and control of the Governor General of India in Council, and be guided by such instruction as the Governor General of India in Council may from time to time issue.

Appeal.

IV. It shall be lawful for the Governor General of India in Council to declare in what cases the order, judgment, or sentence made by any Officer, appointed as provided in the last preceding Section shall be final, and to direct that from any such order, judgment, or sentence an

appeal may be heard and decided by any Court established within British India and beyond the limits of the Settlement of Port Blair.

Revision and confirmation of sentences.

V. It shall be lawful for the Governor General of India in Council to empower any Court established within British India and beyond the limits of the said Andaman Group of Islands, to confirm and modify or reverse any order or sentence passed in any criminal trial by any Officer within such Settlement, and no sentence of death passed by any Officer within any Settlement in the said Group of Islands shall be carried into execution until it be confirmed by the Governor General of India in Council or by such Court, established within British India as aforesaid, as the Governor General of India in Council may for that purpose appoint.

Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.

VI. It shall not be lawful for the Master or Commander of any vessel to land or to anchor such vessel for the purpose of landing any person or any goods or things at any place on the Coast of the Settlement of Port Blair or any other Settlement as aforesaid, except at such place as may be declared a Port under the provisions of Act XXII. of 1855 (*for the regulation of Ports and Port-dues*); and any Master or Commander so offending shall forfeit and pay a sum not exceeding one thousand Rupees.

Penalty for landing at unauthorized Port.

VII. Any person who shall land from any vessel or boat at any place on the Coast of the Settlement of Port Blair or of any other Settlement as aforesaid, except at such place as shall be within the limits of any Port declared under the provisions of the said Act XXII. of 1855, shall forfeit and pay a sum not exceeding five hundred Rupees, and any goods or thing landed from any vessel or boat, except within such limits, shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other Officer aforesaid shall so direct.

Exception from provisions of last two Sections.

VIII. The provisions of the last two preceding Sections shall not apply to any vessel or boat the property of Her Majesty or use for any public purpose, or to any person, goods, or thing landed

from such vessel or boat, nor in any other case when the Sections aforesaid shall have been infringed from stress of weather or other unavoidable circumstances.

Master of vessel to deliver to Conservator list of crew, &c.

IX. The Master or Commander of any vessel which shall enter any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound to deliver to the Conservator of the Port, within twenty-four hours from the time of entering, a list of the crew and passengers on board of such vessel as well as a Manifest of the Cargo carried by such vessel, and any Master or Commander failing to deliver such list and Manifest within such period, shall forfeit and pay a sum not exceeding five hundred Rupees.

Penalty.

Penalty for any person landing without license.

X. No person shall land within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under a license granted as hereinafter provided or under the written permission of the Conservator of the Port or of the Superintendent of the Settlement or other authority appointed as provided in Section I. of this Act, and any person so landing without such license or permission shall forfeit and pay a sum not exceeding Five hundred Rupees.

Penalty for landing goods without license.

XI. No goods or other thing shall be landed within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under the written permission of the Conservator of the Port or other Officer appointed on that behalf; and any goods or thing landed without such permission, shall be liable to be seized by any person in the employment of Government within the Settlement, and may be confiscated if the Superintendent or other authority aforesaid shall so direct.

Penalty for Master omitting to furnish the Conservator with a list of his crew, &c., before the departure of his vessel.

XII. Every Master or Commander of a vessel shall, twenty-four hours at least before the departure of such vessel from any Port of the Settlement of Port Blair, or of any other Settlement as aforesaid, furnish to the Conservator of such Port a list of the crew and other persons who are about to sail in such vessel, specially designating any person (if any) who shall not have arrived at the Settlement in such vessel; and every

Master or Commander who shall fail to furnish such list shall forfeit and pay a sum not exceeding one thousand Rupees. If any such Master or Commander shall, after furnishing the list herein mentioned, take or receive on board his vessel any person not mentioned or included in such list, for the purpose of taking him from such Port, without forthwith informing the Conservator of such Port of the name of such person, he shall be liable to forfeit and pay a sum of five hundred Rupees for every such person so taken or received on board.

Inspection of vessels.

XIII. Every Master or Commander of any vessel anchored in, or about to depart from, any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound, on the requisition of the Conservator of the Port or other person acting under the instructions of the Superintendent of the Port or other Officer as aforesaid, to permit such Conservator or other person to inspect such vessel, and to produce before such Conservator or other person any person who may be on board of such vessel. If any Master or Commander shall fail to conform to any of the provisions of this Section, he shall forfeit and pay a sum not exceeding one thousand Rupees.

Penalty.

Penalty for receiving on board a convict for the purpose of escape.

XIV. If the Master or Commander of any vessel or other person shall wilfully receive on board such vessel or on any boat any convict undergoing a sentence of transportation, for the purpose of conveying the same from the Settlement of Port Blair or any other Settlement as aforesaid, without the knowledge or authority of the Superintendent or other Officer aforesaid, such Master or Commander or other person shall forfeit and pay a sum not exceeding one thousand Rupees, besides being liable to any punishment that may be awarded on conviction of any offence committed by him under the provisions of the Indian Penal Code.

License for residing at the Settlement.

XV. No person shall reside at the Settlement of Port Blair or any other Settlement as aforesaid beyond the period of one month, or after the departure of the vessel by which he was conveyed to such Settlement, except he shall hold a license granted by some person empowered in that behalf by the Governor General of India in Council; and any person who shall so reside without such license, shall

forfeit and pay a sum not exceeding five hundred Rupees. Such person may be required to remove himself from the Settlement in which he shall be within such time as the Superintendent or other Officer appointed as provided in Section I. of this Act shall direct, and if he shall fail so to do, he shall forfeit and pay a sum not exceeding five hundred Rupees, and may further be shipped and removed from the Settlement by any vessel that the Superintendent or other Officer aforesaid shall appoint for that purpose.

Conditions of license to be determined by Governor General in Council.

XVI. The Governor General of India in Council may determine the conditions upon which a license to reside in the Settlement of Port Blair or any other Settlement as aforesaid shall be granted. The conditions so determined shall be inserted in the license; and if the holder of any such license shall fail to conform to, or shall infringe, any of the conditions therein specified, he shall forfeit and pay any sum specified therein as a forfeiture payable for any neglect or infringement of such conditions. Such person may also be required to remove himself from the Settlement in which he shall be, and his failure so to do may be enforced as provided in the last preceding Section.

Imposition and recovery of forfeitures.

XVII. The forfeitures incurred under this Act may be imposed by any Officer exercising the authority of Magistrate within the Settlement of Port Blair, and the payment of the sum may be enforced by distress and sale of the goods and chattels of the offender, or, in the case of the Master or Commander of a vessel, by the distress and sale of such vessel, and the tackle, apparel, and furniture thereof: and in default of the recovery of any sum forfeited and payable under this Act, the offender may be imprisoned in the Civil Gaol for a period of one month if such sum be not sooner paid.

MERCHANT SEAMEN.

ACT No. XXVIII. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites Section 242 of Merchant Shipping Act of 1854, and corresponding provision of Section 82 of Act X. of 1859 of the Legislative Council, for

suspension, by the Local Government, of certificate of competency or service held by Master or Mate, on specified grounds.

Recites also expediency of authorising Courts or tribunals in India, to use the powers vested by Act I., 1859, in Courts of Admiralty.

1. Empowers every Court of Admiralty in India, and the Principal Court of ordinary Criminal jurisdiction at every Port in which there is no Court of Admiralty, to inquire into charges of misconduct, &c., of Masters and Mates, and to report the result to the Local Government.

2. Empowers Court, exercising the above power, to summons the Master and Mate, who are to be allowed to make defence, and Court may make order respecting costs.

3. Saves the jurisdiction of Courts of Admiralty.

4. This Act to be read as part of Act I., 1859.

An Act to extend the provisions of Act I. of 1859 (for the amendment of the Law relating to Merchant Seamen).

Repealed by Act XV., 1863, s. 1.

ARTICLES OF WAR FOR NATIVE ARMY.

Act No. XXIX. of 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites expediency of consolidating and amending Articles of War for Native Army.

1. Repeals Acts XXIII., 1839; II., 1840; XXVIII., 1841; XIX., 1847; VI., 1850; XXXVI., 1850; III., 1854; X., 1856; VIII., 1857; XXXII., 1857; VI., 1860, except so far as they repeal other Acts.

2. Enacts the following Articles of War from a day to be appointed, saving as to offences committed under the repealed Acts, and all warrants and proceedings pending under repealed Articles.

ARTICLES OF WAR.

Chapter I.—Of Enlisting and Discharges.

Article 1. Every recruit, before enrolment in Regiment, to have Articles 5, 6, 7, 8, and 48, read and explained to him, after which he is to make prescribed solemn affirmation.

Article 2. Protects commissioned Officer from dismissal except by General Court Martial, saving power of Government of India, Local Governor, and Commander-in-Chief, to order his discharge. Dismissal involves forfeiture of claim to pension.

ARTICLE 3. Makes Non-Commissioned Officers or Soldiers liable to dismissal by Government of India, Local Governor in Council, or Presidency Commander-in-Chief; and empowers Commanding Officers to dismiss or discharge Soldier, and to dismiss, discharge, or reduce to the ranks Non-Commissioned Officer of Regiment, &c. Dismissal and discharge to involve forfeiture of claim to pension; prohibits suspension of rank, or degradation to a lower grade of rank; and entitles the party to Certificate of cause, &c., of dismissal, &c., in Native and English language.

ARTICLE 4. Declares enlistment of Soldier of one Regiment into another before his discharge from the latter to be desertion; and makes discharged or dismissed Soldier, who re-enlists without stating the fact, liable to dismissal.

CHAPTER II.—OF CRIMES AND PUNISHMENTS.

Crimes Punishable by General Court Martial.

ARTICLE 5—21. Offence of mutiny and sedition in different forms; (6) of striking drawing, &c., lifting up, using, &c., any weapon against Superior Officer; (7) of disobeying command of Officer; (8) of desertion; (9) of sentry sleeping on or quitting his post, or plundering, &c., property under his charge; (10) of shamefully abandoning, &c., any garrison, &c., or using inducements to others to do so; (11) of betraying watchword to persons not entitled to it; of holding correspondence, &c., with enemy; or not discovering it to Commanding Officers; (13) of assisting, &c., the enemy, &c., with money, &c., or knowingly protecting any enemy, &c.; (14) of treacherously releasing, aiding, &c., the escape of any enemy, prisoner under his charge; (15) of misbehaviour or inducing misbehaviour in presence of enemy; (16) of shamefully casting away his arms, &c., in presence of enemy; (17) of leaving, in time of action, Commanding Officer, &c., in search of plunder, &c.; (18) of doing violence in time of war to any one bringing provisions, &c., into Camp, &c.; of forcing a safeguard; of breaking into house, &c., for plunder, &c., or plundering field, &c.; (19) of discharging in time of war fire-arms, &c., or otherwise occasioning a false alarm in action, &c.; (20) of releasing or suffering State prisoner to escape; of conniving at plunder, &c., in time of war; (21) of sentry over State prisoner or treasure, &c., quitting his post, &c., or sleeping at his post, &c.

Punishment for above offences: if by Officer, death, transportation, or other punishment within power of General Court Martial; if by Soldier, death, transportation for life or not less than 7 years, imprisonment for not more than 14 years, or other punishment within power of General Court Martial.

As to Embezzlement.

ARTICLE 22. Embezzlement, &c., of money entrusted for public account, &c., or of provisions, &c., or of Military stores, &c., the property of Government,

&c., or of conniving, &c., at such offence; and offence of wilfully injuring the property of Government entrusted, &c., or suffering much injury:—punishable, on conviction before General Court Martial, with dismissal from service, fine to extent of arrears of pay, &c., and imprisonment, &c., not exceeding 3 years.

Of Crimes punishable by General or other Courts Martial.

ARTICLES 23—54. Offence, of Officer, behaving in a manner specified, unbecoming the character of an Officer; (24) of Officer or Soldier, spreading in the field any report, &c., calculated to alarm the troops, &c.; or (25) in or before action using words intending to alarm; or (26) being drunk on duty, &c.; or (27) striking or forcing any sentry, &c.; or (28) advising, &c., any other Officer or Soldier to desert, or receiving deserter, or knowing of his having been received and not giving notice thereof, &c.; or (29) obtaining or attempting to obtain for himself or another, any pension, &c., by false statement, &c., or omission of true statement, &c.; or (30) knowingly making false return, &c., of men, &c., or of arms, &c.; or (31) at any post, &c., extorting money, &c., or exacting from village, &c., any carriage, &c.; or (32) wantonly and intentionally defiling place dedicated to religious worship, or insulting religious prejudices, &c.; or (33) leaving arrest or confinement, &c.; or (34) without orders committing waste or spoil, &c.; or (35) knowingly enlisting deserter, &c.; or (36) accepting bribe, &c., on pretence, &c., of procuring leave or advantage for any Officer or Soldier; or (37) when in command of post, &c., not seeing reparation done for personal violence or extortion complained of to him, or not reporting the same; or (38) if in command of guard, refusing to receive prisoner, or releasing prisoner, or suffering his escape; or (39) in time of peace quitting guard; or (40) impeding Provost Marshal, &c., or refusing to assist him; or (41) delaying to rejoin his regiment when ordered on service; or (42) in time of peace occasioning false alarms, &c., by discharging fire-arms, &c.; or (43) failing to repair to parade or duty, &c.; or (44) quiting his Company, &c., without leave, &c.; or (45) absenting himself or overstaying his leave, &c.; or (46) Officer or Non-Commissioned Officer striking or ill-treating Soldier; or (47) Soldier being grossly insubordinate, &c., to his Superior Officer; or (48) refusing to assist in making field-work, &c.; or (49) if off duty, contrary to orders, appearing, &c., in camp, &c., carrying a sword, bludgeon, or other weapon; or (50) selling, pawning, or through neglect losing, &c., his own horse, arms, &c., or another's entrusted to him, or making away with, &c., any medal, &c.; or (51) being a sentry, sleeping in his post, or leaving it, &c.; or (52 and 53) contrary to orders, being found 2 miles from Camp; or (54) absent from cantonment after tattoo, &c.; or losing or wasting ammunition, &c.—*Punishment* for the above offences, on conviction before a General or other Court Martial, any punishment within the competence of the Court Martial to award.

ARTICLES 55—62. *Disgraceful* Conduct punishable by General or District Court Martial, with *corporal punishment, &c.*

Soldier guilty of disgraceful conduct in (55) wilfully maiming, &c., himself, with intent to become unfit for service, &c.; or (56) in malingering, feigning,

&c., disease, &c.; or (57) in purloining, &c., Government stores; or (58) in stealing money or goods the property of Officer, &c.; or (59) in plundering or injuring property placed under his charge, &c.; or (60) in embezzling, &c., public money entrusted to him for any Military purpose; or (61) in committing any petty fraud, &c., injurious or to injure Government, &c.; or (62) of conduct of a cruel, indecent, or unnatural kind—*Punishment for the above*, on conviction before General or District Court Martial, any punishment within the competency of such Court to award for disgraceful conduct; and, if not sentenced to dismissal, stoppage of half his pay and allowances, &c., and forfeiture of arrears, &c.; to be applied in compensation; and sentence to be sent to the place of Soldier's home, and there published, &c.

ARTICLES 63—65. *Crimes incident to Courts Martial punishable by General or other Court Martial, &c.*

63, 64. Person amenable to Articles of War, neglecting to attend as a witness, or attending or refusing to be sworn; liable to any punishment within competency of Court Martial; or (64) so offending or making false statement, if not so amenable, to be sent to Magistrate.

65. Using menacing or disrespectful words, &c., in presence of Court Martial, or causing riot, &c., or being grossly insubordinate, &c., to be punished according to the nature and degree of the offence, or if not amenable to Articles of War to be sent to Magistrate.

66. Officer or Soldier *giving false evidence*, punishable by *General or District Court Martial* with dismissal, forfeiture of pay and allowances, or imprisonment.

67. Officer in command may order trial for offence triable at General or District Court Martial to be by Regimental Court Martial, reporting his reasons to the Officer in Command of the Division; and for offence triable by General Court Martial may (except for mutiny) apply for permission to send offender to District or Garrison or Regimental Court Martial.

68. For offence on line of march, or on board ship, &c., offender may be tried by Officer in command, but punishment not to exceed what may be awarded by Regimental Court Martial.

69. Offences to the prejudice of good order, &c., not specified, may be taken cognizance of by Court Martial and punished according to their nature and degree.

CHAPTER III.—ADMINISTRATION OF JUSTICE.

70. Empowers Commanding Officer to put under arrest Officer or Soldier accused of any crime; and arrest, if not practicable at first, may be afterwards made.

71. Limits time for trial to 3 years after offence committed, except in case of impediment to trial, and then to 2 years after removal of impediment.

72. Makes offender triable in any place where he may be.

73. Empowers the Commander-in-Chief of the Presidency to appoint Court Martial, to confirm, &c., sentences, to issue his warrant to General or other Officer, to appoint Court Martial for trial of any Officer or Soldier not being an European British subject, &c. But sentence of forfeiture of additional pay, &c., not to be carried out until confirmed by Commander-in-Chief, &c.

74. Empowers the Governor General in Council to authorize the Commander-in-Chief to issue warrant for appointing Court Martial for Native Troops not attached to any Presidency, &c.

ARTICLES 75—77. *Composition of Courts Martial.*

75. General Court Martial to consist of not less than 13 Commissioned Officers; or if out of British Territories of 7, &c.; and no sentence to be put in execution, till reported and confirmed.

76. District or Garrison Court Martial to consist of not less than 7, or if that number inconvenient, 5, who may be of same Corps as accused or of any other, and sentence requires confirmation.

77. Regimental Court Martial to consist of not less than 5, or if that number be inconvenient, 3, to be assembled by Officer in Command, whose confirmation necessary.

Powers of Court Martial.

78. General Court Martial may sentence Officer to death, transportation for life, or years, &c., to imprisonment not exceeding 3 years under *Arts.* 22 or 26; and Soldier to death, transportation for life or years, or imprisonment for 14 years, according to Articles. No Court Martial inferior to General to sentence to death or transportation, or to imprisonment for more than 3 years.

Punishments of Commissioned Officers.

Commissioned Officers may be sentenced to dismissal, suspension of rank, pay, &c., to be placed lower, &c.; but no Court Martial, inferior to General, to try Commissioned Officer.

Punishments of Non-Commissioned Officers and Soldiers.

General, or District, or Garrison, or Regimental Court Martial may sentence former to be reduced to the ranks, and both to be dismissed, or to be placed lower in the list of rank, or to fifty lashes, or to imprisonment, &c. Regulates solitary confinement, and limits sentence of imprisonment to 2 years by General Court Martial, one year by District or Garrison Court Martial, and six months by Regimental Court Martial; and Non-Commissioned Officer to be reduced to ranks before sentenced to imprisonment, or lashes.

Punishment for disgraceful conduct.

Trial not to be by Court inferior to District or Garrison Court Martial, and sentence may be for forfeiture of pay, &c., in addition to imprisonment, &c. And in every sentence involving dismissal, &c., sentence may be for forfeiture of arrears of pay, &c. Solitary confinement to involve forfeiture of pay, &c., for period of confinement.

79. Sentence of imprisonment on offenders already under imprisonment, may be to take effect from termination of former sentence.

Confirmation and commutation of sentences.

80. Confers on, and limits, the power of the Commander-in-Chief to commute the sentence of death; and of imprisonment; and of dismissal in case of Officer.

Defines and limits the power of Officers whose confirmation is necessary to commute sentences on Soldiers and on Non-Commissioned Officers.

81. Confers on Commanding Officers power to summarily try any offence against the Articles of War; and in exercise of this power Commanding Officer to be deemed a Court Martial. Such trials to be in presence of 2 or more Europeans or Native Commissioned Officers, and to be carried out independently, but proceedings to be recorded, &c., and liable to reviewal.

82. Empowers Officers Commanding Detachments to assemble Detachment, or, &c., Court Martial. Limits the power of those Officers to carry out sentence of Court Martial ordered by themselves, if commanding less than three Companies or troops, and not on line of march or on board ship. But confers on such Officers, &c., power to summarily try offences, and carry out sentence without confirmation; and Officer so trying to be deemed Court Martial; his proceedings to be recorded, &c., as under Article 81.

83. Provides for punishment of light offences, by extra drill, &c., subject to Regulations by Commander-in-Chief.

84, 85. Empowers the Commanding Officer of Cantonments to sentence Native Non-Military offenders for breach of Cantonment rules, to fine of 50 Rupees, &c.; and (85) Camp followers to seven days' imprisonment, &c.

Execution of Sentence of Courts Martial.

86. Sentence of death to be, that offender shall "suffer death by being hanged by the neck until he be dead" or "by being shot to death" (as it may be).

87. On commutation of death for transportation, offender to be delivered to nearest Gaolor, &c., and Gaolor to give effect to sentence of imprisonment.

88, 89. Empowers Commander-in-Chief to direct to what gaol convict shall be sent; but (89) Local Government may remove convict to another gaol, and Governor General in Council to any gaol in India.

90. Empowers Presidency Commander-in-Chief to pardon convicts absolutely or conditionally, by warrant, to be countersigned by Magistrate for execution, and such warrant to be obeyed by Sheriff, Gaolor, &c.

91, 92. Soldier sentenced to imprisonment with hard labor to be struck off the strength of his regiment, &c.; and (92) to be dismissed with ignominy if sentenced to dismissal, &c., for disgraceful conduct.

93. On sentence of forfeiture of arrears of pay, &c., payment may be taken out of any public money belonging to offender; but stoppages to be for not exceeding a year, &c.

94. Original time of holding Court Martial to be fixed by convening Officer but adjournments to be fixed by Court.

ARTICLES 95—100. *Forms of Proceeding.*

95—100. A Judge Advocate, &c., to be appointed to conduct the proceedings of every Court Martial; and (96) an Interpreter, &c.; and (97) the Senior Officer to be President. Also regulates the order of precedence of Native Officers on Court Martial, and provides that, in case of death, &c., of President the Senior Officer shall preside, &c., and (98) no finding or sentence to be revised more than once, and no new evidence shall be taken on revision except as to character, &c.; and (99) voting to begin from the junior member in rank, and majority to decide, except in sentence of death; and in case of equality the decision to be in favor of the prisoner; and (100) in sentence of death two-thirds, or 4 in a Court of 5, or of 5 in a Court of 7 must concur.

ARTICLES 101—109. *Affirmations and Witnesses.*

101—106. Gives form of affirmation for the Interpreter, for each member, and for Judge Advocate; and (102) for witness; and (103) provides for summoning witnesses; and (104) makes record of Court of Inquiry proof of desertion in specified case; and (105) makes proof of absence, &c., presumptive proof of desertion on trial for desertion; but (106) such proof may be rebutted by proof of specified facts, in manner stated.

107. Directs the appointment of Provost Marshals, for the prompt and instant repression of irregularities and crimes in the field and on the line of march; and defines their duties and powers, &c.

108. Saves the right of Native Troops, where it exists, to have Court Martial composed of European Officers; and empowers the Governor General in Council to extend the privilege to any Native Troops; and to order any Court Martial to be composed of European Officers, but such Court to proceed as under the Articles for Native Courts Martial.

109. Authorizes Governor General in Council to empower General or other Officer in Command to appoint Court Martial, General or other, for trial of any Officers or Soldiers subject to these Articles of War, &c.; and to confirm, &c., sentences; and directs how Court Martial so appointed shall be composed, and what powers it shall have, and that a Judge Advocate shall not be necessary.

CHAPTER IV.

ARTICLES 110—112. *Effects of the Dead.*

110, 111. Commanding Officer, if no representative be present, is to secure the effects of deceased Soldier, take an inventory, and send duplicate of it to Office of department; and (111) sell the effects and hold surplus after payment of debts, &c., for representative, and after 12 months remit to General Treasury

112. Effects of deserters to be sold, and surplus, after payment of debts, be remitted to General Treasury.

CHAPTER V.

ARTICLES 113—123. *Miscellaneous.*

113. Articles relating to Commander-in-Chief to apply to Officer Commanding forces of Presidency for time being.

114. Provisions relating to Soldiers to apply to Commanding Officers.

115. Troops belonging to one Presidency serving in another Presidency to be considered under the authority of the Commander-in-Chief, &c., where they serve, unless otherwise directed by the Governor General in Council.

116. Provides for summoning Court Martial for Her Majesty's Troops out of Her Majesty's Territories, and Territories of Her Majesty's Indian allies, and directs how such Court Martial shall be composed and constituted.

117. Provides against trial a second time for same offence, but trial may be for murder after a previous trial for the act which caused the death, &c., and on any conviction evidence may be given of previous conviction; previous notice of intention to receive such evidence being given.

118. Directs that Officer or Soldier wronged by his Superior Officer, may complain to the Commanding Officer, and if not redressed, to the Commanding Officer of Regiment, &c., who is to enquire, &c., and report, &c.; and if complaint be frivolous, &c., he may be tried by Court Martial, &c., for it.

119. Officer or Soldier, taken prisoner by the enemy, to forfeit pay, &c., until he return to the service; but may establish before Court Martial, by proof specified, his right to the interim pay, &c.

120. Officer or Soldier in receipt of public pay, when imprisoned under sentence, &c., to receive subsistence only, &c.

121—123. Aids defect in sentence to transportation when a term is awarded instead of life; and (122) in sentence to imprisonment, and establishes indemnity for illegality of sentence; and (123) makes valid legal sentences passed by Officers not having competent jurisdiction.

CHAPTER VI.

ARTICLES 124—128. *Mode of dealing with offences not Military.*

124, 125. Officer or Soldier to be delivered over to Magistrate for offences triable by the ordinary Criminal Courts, if in British Territory; but (125) out of British Territory, to be tried by Court Martial.

126—128. General Court Martial shall have cognizance of offences punishable with death, transportation, and 7 years' imprisonment; District or Garrison Court Martial (127) of offences punishable with imprisonment up to 3 years, and of other specified offences if specially authorized; Regimental, Detachment, and Line Court Martial, (128) of offences punishable with imprisonment not exceeding 6 months, and of other specified offences if specially authorized.

ARTICLES 129—150. *General Courts Martial.*

129. Officer or Soldier to be deemed to have committed murder if convicted of causing one's death, (1) if the fatal act was intended to cause it, or (2) was intented to do an injury known to be likely, or (3) likely in the ordinary course of things, or (4) by reason of its dangerous nature, &c., to cause it; and shall be sentenced to be hanged by the neck till he be dead, or to transportation for life.

130—137. Officer or Soldier convicted of—(1) breaking into any house, tent, with intent to steal; or (2) of robbery or attempt to rob; or (3) of stealing or attempting to steal in a house, &c., if such offences are accompanied with attempts to commit violence againt any person, shall be sentenced to transportation, &c., or imprisonment, &c., and (131) if convicted of such offences, and they are accompanied with actual wounding, &c., not endangering life; or (132) if convicted of robbing by open violence or dacoity as defined in this Article; or (133) of house breaking, &c., by night with intent to steal; or (134) at any time and actually stealing to value exceeding 100 Rupees; or (135) of purchasing or receiving stolen property, knowing, &c.; or (136) of an unnatural crime; or (137) of rape, shall be sentenced to imprisonment with hard labor not exceeding 14 years.

138, 139. Officer or Soldier convicted of culpable homicide not amounting to murder; or (139) of wounding, &c., with intent to murder, &c.; or of attempting by any means to commit murder; shall be sentenced to not exceeding 14 years imprisonment.

140—150. Officer or Soldier on conviction of premeditated affray attended with homicide short of murder, &c.; or (141) of intentionally wounding, maiming, &c., any person; or (142) of accidentally wounding, &c., one with the intention of wounding another; or (143) of breaking into dwelling-house, &c., between sunrise and sunset, to steal; or (144) of stealing from habitation or person not exceeding 300 Rupees; or (145) of having purchased or received property so stolen knowingly, &c.; or (146) of arson; or (147) of enticing, &c., away, for unlawful purpose, any unmarried woman under 15; or (148) of stealing any child under 8; or (149) of counterfeiting, &c., any Deed, &c., or stamp, or altering same, &c.; or (150) of forging, &c., any counterfeit coin, &c., or of clipping, &c., coin, or paying, &c., counterfeit or forged money or notes, &c., shall be sentenced to imprisonment, &c., not exceeding 7 years.

ARTICLES 151—154. *District or Garrison Courts Martial.*

151. Authorises the Commander-in-Chief of Presidency to cause offenders to be tried by District or Garrison Court Martial for any offences except those to which death or life-transportation is attached, and empowers such Court Martial to sentence to not exceeding three years' imprisonment, &c.

152—154. Establishes inferior punishment or offence of stealing from habitation or person without aggravating circumstances, above 50 Rupees, and not exceeding 300 Rupees; and (153) for offence of receiving, &c., such property, &c.; and (154) for offence of dishonestly having possession of stolen property not exceeding three years' imprisonment, &c.

ARTICLES 155—157. *Regimental, Detachment, or Line Courts Martial.*

155. Authorises the convening of these Courts for trial of offences for which imprisonment with hard labor not exceeding three years is provided, but limits their power of sentencing to not exceeding six months' imprisonment, &c.

156, 157. Provides punishment for stealing under 50 Rupees; and (157) for assault, &c., unattended with homicide, &c., or any aggravating circumstances;—not exceeding one year's imprisonment, &c., if awarded by General, District, or Garrison Court Martial; and not exceeding six months by inferior Court Martial.

ARTICLES 158—166. *Offences punishable by imprisonment from six months to two years, according to the description of the Court.*

158, 159. On conviction of resisting process of Magistrate, &c.; or (159) of any offence not provided against, sentence may be to imprisonment not exceeding two years, by award of General Court Martial, not exceeding one year, or of District Court Martial, and not exceeding six months by inferior Court Martial.

160. Establishes the same punishment against accessories and principals in the second degree, as against principals in first degree.

161, 162. Sentence of death not to be carried out until confirmed by Commander-in-Chief or other specified authority; and (162) authorises such Commander-in-Chief, &c., to confirm, or remit, or commute such sentence.

163, 164. No sentence of transportation to be carried out until confirmed by Commander-in-Chief or other specified Officer; and Commander-in-Chief or such Officer may remit, or confirm, or commute it to imprisonment, &c., and (164) any Officer having authority to confirm, may remit or mitigate the punishment, &c.

165. Prohibits second trial for same offence; but authorises discharge of any person who has been tried from the service.

166. Preserves in force the Regulation relating to the office and powers of Commissariat Officers, Officers in charge of Cantonment Police, &c., and by which Punchayets are constituted, &c., and by which local jurisdiction is given beyond and around Cantonments, &c.

CHAPTER VII.

ARTICLES 167—169. *Application of the Articles.*

167. Enumerates the descriptions of persons amenable to the Articles; and provides that persons of European descent (whether on the side of the father or mother), professing the Christian religion, &c., shall be tried for Military offences by Court Martial composed only of European Officers; and for Non-Military offences shall be tried under the Mutiny Act for Her Majesty's Indian Forces.

168. Directs the Articles to be translated into the several languages of the Presidencies, and that Articles 2, 3, 4, 5, to 69, 78, 81, 82, 110, and 118, be read every three months to the Troops in manner specified.

169. Articles to take effect from 1st November, 1861.

An Act to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army.

Preamble.

Whereas it is expedient to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army, it is hereby enacted as follows:

Repeal of Acts.

I. Act XXIII. of 1839 (*for authorising sentences of imprisonment with or without hard labor by Courts Martial in certain cases*), Act II. of 1840 (*for regulating the execution of sentences pssed by Courts Martial in certain cases*), Act XXVIII. of 1841 (*for extending Act XXIII. of* 1839 *to Camp Followers*), Act XIX. of 1847 (*to make certain amendments in the Articles of War for the Government of the Native Officers and Soldiers in the Military Service of the East India Company*), Act VI. of 1850 (*for enabling the Commander-in-Chief to pardon Military Offences*), Act XXXVI. of 1850 (*to amend Article CXIII. of the Native Army*), Act III. of 1854 (*to amend the 38th Article of War for the Native Army*), Act X. of 1856 (*to repeal the* 122*nd Article of War for the Native Army and to substitute a new Article in lieu thereof*, Act VIII. of 1857 (*to amend Act XIX. of* 1847), Act XXXII. of 1857 (*to amend the Articles of War for the Native Army*), and Act VI. of 1860 (*to amend Act XIX. of* 1847), shall be repealed from the day on which this Act shall come into operation, except in so far as they repeal any other Act or Acts.

Enactment of the following Articles.

II. The following Articles of War shall, from the day appointed for them to come into operation, be the Articles of War for the government of the Native Officers and Soldiers in the Military Service of Her Majesty, and for the administration of Justice by Courts Martial to be holden on such Officers and Soldiers. Provided that all crimes and offences committed against the Articles of War contained in any Act repealed by this Act may be enquired into and punished in like manner as if they had been committed against the Articles of War contained in this Act; and that every Warrant for holding any Court Martial under the Articles of War provided by any Act repealed by this Act shall remain in full force notwithstanding the repeal

Proviso.

of such Act, and that no proceedings of a Court Martial upon any trial begun under any Articles so repealed shall be discontinued owing to the repeal of the same, but that every such trial shall proceed and be completed in the same manner as if this Act had not been passed.

ARTICLES OF WAR.

CHAPTER I.—OF ENLISTING AND DISCHARGES.

ARTICLE 1.

Enlisting.

Every Recruit, prior to being enrolled in any Regiment or Corps, shall have the 5th, 6th, 7th, and 8th, and 48th of these Articles of War read and explained to him. When reported fit for duty in the ranks, any usual declaration or charge shall be made to him by the Officer Commanding, in front of the Regiment or Corps, in presence of the Officers and Soldiers; and the Recruit shall then, in front of the guns or colours, or, if attached to the Corps of Sappers and Miners, in front of such portion of the Corps as shall be present, make the subjoined affirmation:—

"I, _____, solemnly affirm in the presence of Almighty God that I will be faithful to Her Majesty the Queen, and will go wherever I am ordered by land or sea, and will obey all commands of the Officers set over me, and will defend these guns (or colours) with my life."

In the case of a Sapper and Miner, the words "and defend these guns (or colors) with my life," shall be omitted.

ARTICLE 2.

Dismissal and discharge.

No Commissioned Officer shall be dismissed, except by the sentence of a General Court Martial; but the Governor General of India in Council, or the Governor in Council, or the Commander-in-Chief of the Presidency to which a Commissioned Officer belongs, shall have power to order his discharge. Every such dismissal or discharge of a Commissioned Officer shall involve forfeiture of all claim to pension.

ARTICLE 3.

[Repealed by Act V., 1863, and a new Article substituted.]

ARTICLE 4.

Re-enlisting.

No Non-Commissioned Officer or Soldier, until he shall have received his discharge from the Regiment or Corps to which he belongs, shall enlist in any other Regiment or Corps; and any Non-Commissioned Officer or Soldier who shall so enlist, shall be considered a deserter, and shall suffer punishment accordingly.

Any Non-Commissioned Officer or Soldier who shall have been dismissed or discharged from any Regiment or Corps, and shall enlist in any other Regiment or Corps, without at the time of such enlistment stating the fact of his dismissal or discharge, or showing his discharge certificate, may be dismissed the service by the Officer Commanding the Regiment or Corps in which he has enlisted.

CHAPTER II.—CRIMES AND PUNISHMENTS.

Crimes Punishable by General Court Martial.

ARTICLE 5.

Mutiny and sedition.

Any Officer or Soldier—

Who shall begin, excite, cause, or join in any mutiny or sedition in the Regiment or Corps to which he belongs, or in any other Regiment or Corps, on any pretence whatever; or who, being present at any mutiny or sedition, shall not use his utmost endeavours to suppress the same; or who, coming to the knowledge of any mutiny, intended mutiny, or combination against the State, shall not give immediate information thereof to his Commanding Officer; or

ARTICLE 6.

Striking Superior Officer, &c.

Who shall strike his superior Officer, or shall draw or offer to draw, or lift up any weapon, or use or offer any violence against him, whether on or off duty, and under any circumstances in which his Superior Officer may be distinguishable as such in any manner; or

ARTICLE 7.

Disobeying Superior Officer.

Who shall disobey any lawful command of his Superior Officer; or

ARTICLE 8.

Desertion.

Who shall desert from Her Majesty's Service, whether he shall have re-enlisted or not; or

ARTICLE 9.

Sentry in time of war or alarm, sleeping upon or deserting his post, &c.

Who, being a sentry, in time of war or alarm, shall sleep upon his post; or shall quit his post without being regularly relieved, or without leave; or shall plunder or injure the property placed under his charge; or

ARTICLE 10.

Abandoning Garrison or Post, &c.

Who shall shamefully abandon or deliver up any Garrison, Fortress, Post, or Guard, committed to his charge or which it was his duty to defend; or who shall use means to induce any other Officer or soldier so to abandon or deliver up any such Garrison, Fortress, Post, or Guard; or

ARTICLE 11.

Making known watchword.

Who shall treacherously make known the watchword to any person not entitled to receive it according to the rules and discipline of war; or

ARTICLE 12.

Communicating with the enemy.

Who shall, directly or indirectly, hold correspondence with or communicate intelligence to the enemy, or to any person in arms against the State; or who, coming to the knowledge of such correspondence or communication, shall omit to discover it immediately to his Commanding Officer; or

ARTICLE 13.

Assisting or protecting enemies.

Who shall, directly or indirectly, assist or relieve the enemy, or any person in arms against the State, with money, victuals, or ammunition, or in any other way; or shall knowingly harbour or protect any enemy or person in arms against the State; or

ARTICLE 14.

Releasing or conniving at the escape of an enemy.

Who shall treacherously release, wilfully aid, or connive at the escape of any enemy or person in arms against the State, placed as a prisoner under his charge; or

ARTICLE 15.

Misbehaviour before the enemy.

Who shall, in the presence of an enemy, or any person in arms against whom it is his duty to act, misbehave or use means to induce any other person so to misbehave; or

ARTICLE 16.

Casting away arms, &c., in presence of an enemy.

Who shall, in presence of an enemy, or of any person in arms against whom it is his duty to act, shamefully cast away his arms or ammunition; or

ARTICLE 17.

Leaving post, &c., in time of action, for search for plunder.

Who shall, in time of action, leave his Commanding Officer, or his Post, or Colors, or Party, to go in search of plunder; or

ARTICLE 18.

Offering violence in time of war to person bringing provisions to Camp, &c.

Who shall, in time of war, do violence to any person bringing provisions or other necessaries to the camp or quarters of the Force with which he is serving; or shall force a safe-guard; or shall break into any house or other place for plunder; or shall plunder any field or garden or other property; or

ARTICLE 19.

False alarm in time of war.

Who shall, in time of war, by discharging any fire-arms, drawing a sword, beating a drum, making any signal, using any word, or by any means whatever, intentionally occasion a false alarm in action, camp, garrison, or quarters; or

ARTICLE 20.

Releasing or conniving at escape of State prisoner.

Who shall, without proper authority, release any State prisoner, or shall, through carelessness or neglect, suffer any such prisoner to escape; or shall connive at the plunder or injury of any property in time of war, or the plunder or injury of any treasure, or of any magazine, or dock-yard, by the sentry or guard in whose charge such property, treasure, magazine, or dock-yard, is placed; or

ARTICLE 21.

Sentry quitting his post, &c.

Who, being a sentry placed over any State prisoner, or over any treasure, or over any magazine or dock-yard, shall quit his post without being regularly relieved, or without leave, or shall sleep upon his post; or shall plunder or injure any property placed under his charge;

Shall, on conviction,—

Punishment if an Officer.

If an Officer, suffer death, or transportation for life, or for a period not less than seven years; or such other punishment as a General Court Martial is by these articles empowered to award:

Punishment if a Soldier.

If a Soldier, suffer death, or transportation for life, or for a period not less than seven years; or imprisonment, with or without hard labor, for a period which may extend to fourteen years, and may be with or without solitary confinement; or such other punishment as a General Court Martial is by these Articles empowered to award.

Embezzlement, punishable by General Court Martial.

ARTICLE 22.

Embezzlement.

Any Officer or Soldier—

Who shall embezzle or fraudulently misapply any money entrusted to him on the public account, or for any Military purpose, or any provisions, forage, arms, clothing, ammunition, or Military stores, of whatever kind or description, the property of Government, entrusted to his charge; or shall be concerned in or connive at any such embezzlement or fraudulent misapplication; or

Wilful injury to certain Government property.

Who shall wilfully injure any property of Government entrusted to him on the public account, or for any Military purpose, or shall suffer such property to be injured:

Punishment.

Shall, on conviction before a General Court Martial, be dismissed the service, and fined to the extent of his arrears of pay and allowances; and be further liable to suffer imprisonment with or without hard labor for a term which may extend to three years, and may be with or without solitary confinement.

Crimes punishable by General or other Courts Martial, with any sentence which, by these Articles of War, any General or other Court Martial, respectively, is empowered to award.

ARTICLE 23.

Any Officer—

Who shall behave in a manner unbecoming the character of an Officer (the fact or facts whereon the charge is grounded being clearly specified therein); or

Officers misbehaving themselves.

ARTICLE 24.

Any Officer or Soldier—

Who shall, in any operation in the field, spread any report, by any word or letter calculated to create unnecessary alarm in the troops, or in the vicinity, or in rear of the army; or

Spreading reports calculated to create alarm.

ARTICLE 25.

Who shall, in action or previously to going into action, use any word tending to create alarm or despondency; or

Using words tending to create alarm.

ARTICLE 26.

Who shall be drunk when on or for duty, or on Parade, or on the Line of March; or

Being drunk.

ARTICLE 27.

Who shall strike or force any sentry; or

Striking a Sentry.

ARTICLE 28.

Who shall advise or persuade any other Officer or Soldier to desert, or who shall connive at such desertion; or who shall knowingly receive and entertain any deserter, or who, knowing of any other Officer or Soldier having deserted, or knowing of any deserter having been received or entertained by any other Officer or Soldier, shall not immediately give notice to his own Superior Officer, or do his best to cause such deserter to be apprehended by the Civil power; or

Advising or persuading desertion, &c.

ARTICLE 29.

Who shall obtain, or attempt to obtain for himself, or for any other Officer or Soldier, or for any other person whatsoever, any pension or allowance,

Obtaining pension by false statement.

by any false statement, certificate, or document, or by the omission of any true statement, certificate, or document; or

ARTICLE 30.

Making false return to Superior Officer.

Who shall knowingly make a false return or report to any Officer authorized to call for a return or report of the state of the men under his command, or of any arms, ammunition, clothing, or other stores belonging to such men, or of which he has charge; or

ARTICLE 31.

Extortion.

Who, at any post, or on the March, shall unlawfully extort any money or property of any description as a fee or duty, or on any pretence whatever; or shall, without authority, exact from any villager, or any other person, any carriage, porterage, or provisions; or

ARTICLE 32.

[Repealed by Act V., 1863, and new Article substituted.]

ARTICLE 33.

Breaking arrest or confinement.

Who, being under arrest or in confinement, shall leave his arrest or confinement before he is set at liberty by proper authority; or

ARTICLE 34.

Committing waste, &c.

Who shall, without orders, commit any waste or spoil, or plunder, or shall injure or destroy any property; or

ARTICLE 35.

Enlisting a deserter.

Who shall knowingly enlist a deserter, or connive at his enlistment; or

ARTICLE 36.

Demanding or accepting bribes.

Who, directly or indirectly, shall require or accept a bribe, present, or gratification, on the pretence of or as a consideration for, procuring leave of absence, promotion, or any other advantage or indulgence for any Officer or Soldier; or

ARTICLE 37.

Those in command of post, &c., not seeing reparation done to injured parties, &c.

Who, being in command of any post, or on the march shall not, on complaint made to him of any one under his command beating or otherwise ill-treating any person, or extorting from such

person more than he is obliged to furnish, or disturbing any fair or market, or committing any kind of riot, see reparation done to the person injured; or if that be impracticable, report the same to his Superior Officer; or

ARTICLE 38.

Those in command of guard refusing to receive prisoners, &c.

Who, being in command of a guard, shall refuse to receive any prisoner duly committed to his charge; or shall, without proper authority, release any prisoner; or shall suffer, through carelessness or neglect, any prisoner to escape; or

ARTICLE 39.

Quitting guard or picquet in time of peace.

Who, in time of peace, shall quit his guard or picquet without being regularly relieved or without leave; or

ARTICLE 40.

Impeding Provost Marshal, &c.

Who shall impede a Provost Marshal or an Assistant of a Provost Marshal or any person lawfully exercising authority; or refuse when called upon to assist him when requiring his aid in the execution of his duty; or

ARTICLE 41.

Those on leave of absence neglecting to rejoin their Regiment when ordered on service.

Who, being on leave of absence, and having received information from the Commanding Officer of his Regiment or Corps, or from other proper authority, that his Regiment or Corps has been ordered on service, shall not rejoin without delay; or

ARTICLE 42.

False alarm in camp in time of peace.

Who shall, in time of peace, by discharging any fire-arms, drawing a sword, beating a drum, or by any other means whatever, intentionally occasion a false alarm in camp, garrison, or cantonment; or

ARTICLE 43.

Failure to attend parade, &c.

Who shall, without sufficient cause, fail to repair, at the time fixed, to the parade, or place appointed for exercise or duty; or

ARTICLE 44.

Quitting company or parade without leave.

Who shall, without urgent necessity, or without leave of his Superior Officer, quit his company, or troop, or the parade; or

ARTICLE 45.

Absence without leave, &c.

Who shall absent himself without leave, or shall, without sufficient cause, overstay the period for which leave may have been granted him; or

ARTICLE 46.

Striking or ill-treating a Soldier.

Any Officer or Non-Commissioned Officer—

Who shall strike or otherwise ill-treat any Soldier; or

ARTICLE 47.

Insubordination.

Any Soldier—

Who shall be grossly insubordinate or insolent to his Superior Officer in the execution of his office; or

ARTICLE 48.

Refusal to assist in making field or other works.

Who shall refuse to assist in the making of any field work, or other Military work of any description ordered to be made, either in quarters or in the field; or

ARTICLE 49.

Going armed contrary to orders.

Who, when off duty, shall, contrary to orders, appear in or about camp or cantonments, or on occasion of going to or returning from, or in or about any town or bazaar, carrying a sword, bludgeon, or other weapon; or

ARTICLE 50.

Pawning, losing, or injuring horse, arms, accoutrements, &c.

Who shall sell, pawn, or designedly, or through neglect, lose or injure his horse, arms, clothes, accoutrements, or regimental necessaries; or any such articles entrusted or belonging to any other Soldier; or who shall make away with or pawn any medal or decoration granted to him by order of Her Majesty, or of the East India Company, or by order of the Government, for service in the field or for general good conduct; or

ARTICLE 51.

Sentry in time of peace sleeping upon post, &c.

Who, being a Sentry, in time of peace shall sleep upon his post, or shall leave it before being regularly relieved or without leave; or

ARTICLE 52.

Soldier found 2 miles from camp contrary to orders.

Who, contrary to orders, shall be found 2 miles from the camp; or

ARTICLE 53.

Absence from cantonment, &c.

Who, contrary to orders, shall be absent from his cantonment after tattoo, or from camp after retreat beating; or

ARTICLE 54.

Selling, losing, or wasting ammunition.

Who shall, sell lose, or designedly, or through neglect, waste any ammunition delivered out to him:

Punishment.

Shall, on conviction before a General or other Court Martial, be sentenced to suffer such punishment as such Court Martial is by these Articles empowered to award.

Disgraceful Conduct; punishable by General or District Court Martial, with Corporal punishment, or Imprisonment with or without hard labor and solitary confinement, and in addition with Forfeiture of additional Pay and of Pension on Discharge, and Stoppages, of Non-Commissioned Officers and Soldiers.

ARTICLE 55.

Disgraceful conduct.

Any Soldier who shall be guilty of disgraceful conduct:

Wilfully maiming or injuring himself or another Soldier.

In wilfully maiming or injuring himself or any other Soldier at the instance of such Soldier, with intent to render himself or such other Soldier unfit for the service, or with intent to take his own life; or

ARTICLE 56.

Malingering, &c.

In malingering; feigning, or intentionally producing any disease or infirmity, or intentionally delaying his cure, or intentionally aggravating his disease or infirmity; or

ARTICLE 57.

Stealing or selling Government stores.

In purloining or selling any Government stores; or

ARTICLE 58.

Stealing property of Soldiers and others.

In stealing any money or goods, the property of any Officer or Soldier, or of any Military Mess, or of any person belonging to or serving with or attached to the Army; or

ARTICLE 59.

Plundering property under his charge as sentry, &c.

In plundering or injuring any property placed under his charge as sentry, or in charge of his guard, or in conniving at the plunder or injury of any such property; or

ARTICLE 60.

Embezzling public money.

In embezzling or fraudulently misapplying any public money entrusted to him for any Military purpose; or

ARTICLE 61.

Fraud or dishonesty.

In committing any petty offence of a fraudulent or dishonest nature, to the injury of or with intent to injure the Government, or any person, Civil or Military; or

ARTICLE 62.

Cruelty, indecency, &c.

Who shall be guilty of any other disgraceful conduct, of a cruel, indecent, or unnatural kind;

Punishments.

Shall, on conviction before a General or District or Garrison Court Martial, be liable to such punishment as such Court Martial is by these Articles of War empowered to award for disgraceful conduct.

Every offender so convicted, if not dismissed the service, shall, by sentence of the Court, be put under stoppages not exceeding half of his monthly pay and allowance, until the amount of any loss or damage arising out of his misconduct be made good.

If such offender be dismissed the service he shall further be sentenced to forfeit any arrears of pay and allowances due at the time of his dismissal, towards making good any loss or damage arising out of his misconduct; or to forfeit any portion of such arrears that may be required to make good such loss or damage.

A copy of every sentence of dismissal for disgraceful conduct passed by any Court Martial shall, after its confirmation, be transmitted by the Adjutant General of the Army to the Chief Civil Officer of the District wherein the village or other place to which the offender belongs is situated; and such Chief Civil Officer shall thereupon publish such sentence by affixing a copy thereof in the village or place, or otherwise as may be usual in the locality.

Crimes incident to Courts Martial, punishable by General or other Court Martial according to the nature and degree of the offence.

ARTICLE 63.

Refusal of a person amenable to Articles of War to attend Court Martial, or to be sworn, &c.

Any person amenable to these Articles of War, who shall, when duly summoned to attend as a witness before a Court Martial, neglect to attend, or shall refuse to be sworn, or to make affirmation, or to answer any question, or who shall instigate any other person so to offend;

Shall, on conviction, be sentenced by the same, or another Court Martial, to such punishment as any such Court Martial is by these Articles empowered to award.

ARTICLE 64.

Refusal of a person not amenable to Articles of War to attend Court Martial, or to be sworn, &c.

Any person not amenable to these Articles of War, who shall, when duly summoned to attend as a witness before a Court Martial, refuse or neglect to attend, or shall refuse to be sworn, or to make affirmation, or to answer any question; or who shall, when he has been duly sworn, or has solemnly affirmed that he will speak the truth, make any statement which is false, and which he either knows or believes to be false, or does not believe to be true; or who shall instigate any other person so to offend;

Shall be delivered over to a Magistrate, who shall proceed against the offender in the same manner as if the offence had been committed before a Criminal Court.

ARTICLE 65.

Contempt of Court.

Any person using any menacing or disrespectful word, sign, or gesture, in the presence of a Court Martial when sitting; or causing any disorder or riot so as to disturb the proceedings of such Court Martial; or being grossly insubordinate or violent in the presence of a Court Martial;

Shall, if amenable to these Articles of War, be punished according to the condition of the offender and the nature and degree of his offence, by the sentence of the same or another Court Martial; and if not amenable to these Articles of War, to be delivered over to a Magistrate, who shall proceed against the offender in the same manner as if the offence had been committed before a Criminal Court.

The offence of giving false evidence, punishable by General or District Court Martial, with dismissal and fine or imprisonment.

ARTICLE 66.

Perjury.

Any Officer or Soldier—

Who shall give false evidence as defined in Article 64 before any General or other Court Martial, or any Military Court entitled to take evidence on oath or affirmation; or who shall instigate any other person so to offend; shall, on conviction before a General, District, or Garrison Court Martial, be dismissed the service; and shall further be sentenced to forfeit any arrears of pay and allowances due at the time of his dismissal, and may be sentenced to imprisonment with or without hard labour for a term which may extend to three years.

ARTICLE 67.

Crimes admitting of less serious notice.

When the Officer Commanding a Regiment or Corps considers that any Soldier under his command, who is charged with any offence declared by the foregoing Articles to be triable by a District or Garrison Court Martial, should be tried by a Regimental Court Martial, he may order the offender to be tried by such Court Martial, and shall report the case to the Officer Commanding the Division, stating the reason for such order.

When the Officer Commanding a Regiment or Corps considers that any Soldier under his command, who is charged with any offence declared by the foregoing Articles to be triable by a General Court Martial, should be tried by a District or Garrison or Regimental Court Martial, such Commanding Officer may lay a statement of the case before the General or other Officer having authority to convene General Courts Martial, under whose command the offender may be serving, with an application for permission to try the offender by District or Garrison or Regimental Court Martial, and such General or other Officer shall comply with or refuse such application at his discretion. The order of such General or other Officer, when the application is complied with, shall be entered upon the proceedings at the trial of such offender.

Provided that mutiny shall not be considered one of the offences admitting of such discretionary investigation.

ARTICLE 68.

Offences on the line of march or on board vessels.

For any offence committed on the line of march, or on board any ship or other vessel, the Officer in command of the Troops may try any Soldier by a Regimental or Detachment Court Martial, and may confirm and execute on the spot any sentence that may be passed.

Provided that such sentence shall in no case exceed that which a Regimental Court Martial is competent to award; and that the proceedings held in all such cases shall be transmitted for the information of the Commander-in-chief of the Presidency to which such troops belong, and to the Commander-in-Chief of the Presidency within which such troops shall be serving or to which they are proceeding.

ARTICLE 69.

Crimes not specified.

Any crime not punishable with death, and any disorder or neglect of which any Officer or Soldier is guilty, to the prejudice of good order and Military discipline, may, though not specified in these Articles, be taken cognizance of by Courts Martial, and punished, according to the nature and degree of the offence, by the sentence of a General, or District, or Garrison, or Regimental Court Martial.

CHAPTER III.—ADMINISTRATION OF JUSTICE.

ARTICLE 70.

Arrest or confinement.

Whenever any Officer or Soldier is accused of any crime which the Commanding Officer of such Officer or Soldier considers should be tried by Court Martial, such Commanding Officer shall order the accused, if he be an Officer or Non-Commissioned Officer, to be put under arrest, or if a Soldier, to be confined until he can be tried by a Court Martial, or discharged by proper authority. No such Officer or Soldier shall be detained in arrest or confinement longer than is avoidable.

Resistance to arrest.

When, in consequence of any resistance, or from any other circumstance, such arrest or confinement is impracticable, the offender shall be liable to trial and punishment at any subsequent period within the limitation provided in these Articles of War.

ARTICLE 71.

Limitation of time.

No person shall be liable to be tried or punished for any offence against the Articles of War, which shall appear to have been committed more than three years previous to the order directing the assembly of the Court Martial whereby he is being, or is to be tried, unless it shall appear that the person accused, by reason of his absenting himself, or some other manifest impediment, could not be brought to trial within that period; in which case such person shall be liable to be tried at any time not exceeding two years after such impediment shall have ceased.

ARTICLE 72.

Offenders may be tried elsewhere than where the offence was committed.

Any person amenable to these Articles of War, who commits any offence against them, may be tried and punished for such offence in any place where he is, in the same manner as if the offence had been committed in such place.

ARTICLE 73.

[Repealed by Act V., 1863, and new Article substituted.]

ARTICLE 74.

Whenever any Native Troops subject to these Articles of War

Appointment of Courts Martial for trial of Troops not attached to any Presidency.

are not attached to the Forces of any Presidency, the Governor General of India in Council shall authorize the Commander-in-Chief of any Presidency to issue his warrant to the General or other Officer having the command of such troops to appoint Courts Martial in conformity with this Act.

Composition of Courts Martial.

ARTICLE 75.

Constitution of General Court Martial.

Except as hereinafter provided, a General Court Martial shall not consist of less than thirteen Commissioned Officers, unless it be held out of the British Territories in India. When a Court Martial is held out of the British Territories in India, it may consist of seven Commissioned Officers, if a greater number cannot be conveniently assembled. No sentence of a General Court Martial shall be put in execution until after a report shall have been made of the whole proceedings to the Commander-in-Chief of the Presidency or to some other person duly authorised to confirm the same, and until the directions of such Commander-in-Chief or other person as aforesaid shall have been signified thereupon.

ARTICLE 76.

Constitution of District or Garrison Court Martial.

A District or Garrison Court Martial shall consist of not less than seven Commissioned Officers when that number can be conveniently assembled. When that number cannot be conveniently assembled, such Court may consist of not less than five Commissioned Officers.

A District or Garrison Court Martial may be composed of Officers of the same Regiment or Corps as the accused, or of any other Regiment or Corps.

The sentence of a District or Garrison Court Martial shall be subject to confirmation by the Commander-in-Chief of the Presidency, or by some Officer duly authorized to confirm the same.

ARTICLE 77.

Constitution of Regimental Court Martial.

A Regimental Court Martial shall consist of not less than five Commissioned Officers when such number can be assembled. When such number cannot

be assembled, such Court may consist of three Commissioned Officers. Such Court shall be assembled by order of the Officer Commanding the Regiment. No sentence of a Regimental Court Martial shall be of force until the Commanding Officer shall have confirmed the same. Such Commanding Officer shall have power to remit all sentences whatever passed by such Court, and to cause the offender to be released and to return to his duty.

Powers of Court Martial.

ARTICLE 78.

[Repealed by Act V., 1863, and new Article substituted.]

ARTICLE 79.

Second sentence of imprisonment on an offender already under sentence of imprisonment.

Whenever sentence shall be passed by a Court Martial on an offender already under sentence of imprisonment, such Court may award sentence of imprisonment to commence at the expiration of the imprisonment to which the offender shall have been so previously sentenced, although the aggregate of the terms of imprisonment may exceed the term for which imprisonment could otherwise be awarded by such Court Martial.

Confirmation and Commutation of Sentences.

ARTICLE 80.

Sentence of death.

When a sentence of death shall have been awarded by a General Court Martial, the Commander-in-Chief of the Presidency may confirm such sentence, and cause it to be carried into effect, or may in lieu thereof order the offender, if an Officer, to be transported for life, or for a term not less than seven years, or to be imprisoned for any period not exceeding fourteen years; or, if a Soldier, to be transported for life, or for a term not less than seven years, or to be imprisoned, with or without hard labor, and with or without solitary confinement, for any period not exceeding fourteen years.

Sentence of transportation.

In cases wherein a sentence of transportation has been awarded by a General Court Martial, the Commander-in-Chief of the Presidency may, in lieu thereof,

order the offender, if an Officer, to be imprisoned for any period not exceeding fourteen years, or, if a Soldier, to be imprisoned, with or without hard labor, and with or without solitary confinement for any period not exceeding fourteen years. Provided that in any such case, if the sentence of transportation be for any less period than fourteen years, the imprisonment in commutation shall not be for a longer period.

Sentence of dismissal.

In lieu of a sentence of dismissal, in the case of an Officer, the Commander-in-Chief of the Presidency may order the offender to be suspended from rank and pay and allowances for a stated period.

Corporal punishment or imprisonment with hard labor.

Any Officer having authority to confirm the sentence of a Court Martial, may commute a sentence of corporal punishment to dismissal from the service, or to imprisonment without hard labor, and with or without solitary confinement, for any period not exceeding one year, for which such Court might have sentenced the offender for the offence; or may commute a sentence of imprisonment with hard labor to imprisonment without hard labor, with or without solitary confinement, for the same or for a less period—or to dismissal from the service.

Corporal punishment, imprisonment with hard labor, or dismissal.

Any Officer having authority to confirm the sentence of a Court Martial, may, in commutation of a sentence on a Non-Commissioned Officer, of corporal punishment, or imprisonment, or of dismissal, direct that such Non-Commissioned Officer be reduced to the ranks, or placed lower in the list of the rank which he holds, whereby such Non-Commissioned Officer shall lose the corresponding benefit of length of service.

ARTICLE 81.

Powers of Commanding Officers of Native Regiments in punishing offences committed by Non-Commissioned Officers and Soldiers and Native Camp Followers.

The Commanding Officer for the time being of any Regiment or Corps may summarily try any offence against these Articles of War committed by any person subject to these Articles (not being a Commissioned Officer), and, on conviction, may sentence the offender and carry out such sentence without confirmation or any further authority; provided that such sentence shall not exceed the sentence which a District or Garrison Court Martial might pass.

A Commanding Officer holding a trial under this Article shall be deemed a Court Martial, and the words "Court Martial" in these Articles of War shall be deemed to include a Commanding Officer holding a trial.

The proceedings on such trials by the Commanding Officer shall be conducted in the presence of two or more European or Native Commissioned Officers, and shall be recorded in the English language, and the evidence shall be taken on oath or affirmation, and interpreted by an interpreter upon affirmation. The Commanding Officer shall record the finding and sentence, and the proceedings shall then be signed by such Commanding Officer, and by the Officers in whose presence the trial is held and shall, without delay, be forwarded to the Officer Commanding the Division, who is hereby authorised to set aside the trial for reasons based on the merits of the case, but not on any merely technical grounds. Every sentence so awarded by a Commanding Officer may be carried out without waiting for its approval by the reviewing Officer.

ARTICLE 82.

[Repealed by Act V., 1863, s. 2.]

ARTICLE 83.

Punishment of light offences.

For light offences, a Commanding Officer may, without the intervention of a Court Martial, award extra drill, restriction to barrack limits or within the lines of the Regiment or Camp, confinement in the Quarter Guard or Defaulters' Room or in a Solitary Cell, removal from Staff situations, or acting appointments; or may order any Soldier to be employed in piling and unpiling shot, and in cleaning accoutrements of men in hospital. But none of these punishments shall be awarded by sentence of a Court Martial. Any Soldier, while undergoing punishment under this Article, shall be liable to be ordered to attend ordinary drill.

The Commander-in-Chief of the Presidency shall prescribe the periods not exceeding which offenders shall be liable to drill or confinement or restriction to local limits, as authorized by this Article.

ARTICLE 84.

Punishments for breach of Cantonment Regulations.

For any offence in breach of the Rules and Regulations of any Cantonment, the Commanding Officer of such Cantonment may sentence the offender

(provided he be not a European British subject or an Officer or Soldier), notwithstanding he is neither amenable to any Articles of War, nor under the Military command of such Commanding Officer, to pay a fine not exceeding fifty Rupees; and in default of payment of such fine, and in lieu thereof, to imprisonment for any period not exceeding thirty days, if the fine be not sooner paid; and the Officer in charge of any Goal, on the delivery to him of the person of the offender, accompanied by a warrant under the hand of such Commanding Officer, shall give effect to such imprisonment.

ARTICLE 85.

Punishment of offences committed by Camp-followers.

For any offence in breach of good order, a Commanding Officer of any Regiment, Corps, or Detachment, may sentence any follower of such Regiment, Corps, or Detachment under his command to imprisonment for any period not exceeding seven days; or, if the offender be not of a degree superior to that of a menial servant, to undergo corporal punishment not exceeding twelve strokes of a rattan; or if the offender be of a degree superior to that of a menial servant, to fine not exceeding fifty Rupees, and in default of payment to imprisonment for a period of thirty days, if such fine be not sooner paid.

Execution of Sentences of Courts Martial.

ARTICLE 86.

Sentence of Death.

In awarding a sentence of death, a General Court Martial shall specify that the offender shall "suffer death by being hanged by the neck until he be dead," or "by being shot to death," as the Court in their discretion shall deem expedient; and such sentence, if confirmed, shall be carried into effect accordingly.

ARTICLE 87.

Transportation.

Whenever the sentence of a General Court Martial shall adjudge transportation, or sentence of death shall be commuted by competent authority to transportation, the offender shall be delivered over to the Officer

in charge of the nearest Gaol, and such Officer, in giving effect to the sentence, shall be guided by such order as he shall receive from the Local Government.

Imprisonment with hard labor or solitary confinement.

Whenever any sentence of a Court Martial shall adjudge imprisonment with or without hard labor, or with solitary confinement, or both, or whenever the sentence of a Court Martial shall be commuted to any such imprisonment, it shall be the duty of every Officer in charge of a Gaol, to give effect to such sentence on the offender being delivered into his custody, with an authenticated copy of the sentence passed on the offender.

ARTICLE 88.

Place of imprisonment.

The Commander-in-Chief of the Presidency may, from time to time, direct that any person sentenced to imprisonment by a Court Martial may be imprisoned in any public Gaol or in any other fit place.

ARTICLE 89.

Local Government may cause removal to another place of imprisonment.

When any person subject to these Articles of War is confined in any public Gaol or other place not under Military control under a sentence of imprisonment passed by a Court Martial, the Local Government of the Presidency or place in which such place of confinement is situate, may order the removal of such person from such place of confinement to any other public Gaol or other fit place of confinement within the Territories of such Local Government. The period for which such person is in custody during such removal shall be reckoned as part of the original period of imprisonment for which such person was sentenced. The Governor General of India in Council may order the removal of any such person from any place of confinement in British India to any other place of confinement therein.

ARTICLE 90.

Powers of Commander-in-Chief of a presidency to pardon certain offenders.

The Commander-in-Chief of any Presidency shall have power to pardon any person belonging to the Military Forces of such Presidency, who shall have been convicted by a Court Martial of any offences against the Articles of War, which offence, wherever committed, is not punishable otherwise than by

sentence of a Court Martial. Instead of granting a full pardon to any such person, the Commander-in-Chief of the Presidency may remit any part of the punishment awarded for the offence.

In any such case the Commander-in-Chief of the Presidency shall, together with a copy of the warrant or other instrument under which the offender is kept in custody in execution of the sentence, issue a warrant under his own hand, setting forth the offence of which the offender has been convicted, and pardoning or remitting such part of the punishment awarded for such offence as to him shall seem fit.

The said warrant shall be countersigned by the Magistrate of the zillah or city in which the offender is undergoing his sentence; or, if he is confined in any prison within the limits of a Supreme Court of Judicature, shall be countersigned by a Judge of such Court, if it shall appear to such Magistrate or Judge that the offence, wherever committed, is not punishable by any authority other than that of a Court Martial; but not otherwise.

Every Sheriff, Gaoler, or other person having custody of any offender under sentence of a Court Martial, shall obey and give effect to any warrant of the Commander-in-Chief of the Presidency, duly countersigned as aforesaid, for the pardon and release of any offender in his custody, or for the remission of any part of the sentence of any such offender.

Article 91.

Dismissal from service.

Every Soldier sentenced under these Articles of War to imprisonment with hard labor for either a Military or Non-Military offence, shall be struck off the strength of the Regiment or Corps to which he belongs from the date of confirmation of such sentence; and no Soldier who has undergone such imprisonment for any period shall be capable of being re-admitted in the ranks, or of receiving pension on discharge.

Article 92.

Dismissal with ignominy.

Any Soldier sentenced for disgraceful conduct to dismissal, or to corporal punishment, or to imprisoment with hard labor, shall, on any such sentence being confirmed, be dismissed with ignominy.

ARTICLE 93.

Stoppage of pay.

In every case wherein a fine or forfeiture of arrears of pay, or stoppages, shall be adjudged by a Court Martial, any pay or public money due to the offender or that may become due to him, shall be available, with the sanction of the Commander-in-Chief of the Presidency, for the payment of the amount so adjudged.

Limitation.

No Soldier sentenced to pay a fine, or to stoppages, to make good any loss or damage arising out of his misconduct, shall be continued under forfeiture or stoppages under any one such sentence, for any period exceeding one year; and no Soldier shall be at any one time placed under forfeiture or stoppages exceeding in the whole the amount of half his pay and allowances, nor be liable to be put under further stoppages while actually under stoppages to the amount of half of his pay and allowances.

ARTICLE 94.

Time for trials by Courts Martial.

Trials by Courts Martial may be carried on at any time without restriction. The hour of original assembly of the Court shall be named by the Officer convening the Court, but the adjournment of the Court and the hour of its re-assembly shall be determined by the Court itself.

Forms of Proceeding.

ARTICLE 95.

Judge Advocate.

Except as hereinafter provided, a Judge Advocate, or a European Officer of not less than ten years' service, shall be appointed to conduct the proceedings at every General Court Martial; and a European Officer of not less than four years' service, or any Adjutant of a Regiment where such Officer is available, shall be appointed to conduct the proceedings at all other Courts Martial.

ARTICLE 96.

Interpreter.

An interpreter shall be appointed to every Court Martial. If no interpreter is available at the Station where the Court Martial sits, the Officer Com-

manding at such Station shall appoint any competent person under his command to perform the duty of interpreter. Where no interpreter or other competent person is available, the Superintending Officer at the Court Martial shall perform the duty of interpreter.

ARTICLE 97.

President.

At every Court Martial the Senior Officer shall sit as President without being appointed by warrant. Rissaldar Majors and Subadar Majors are to take precedence according to the dates of their Commissions, and above all Native Officers holding the rank of Subadar or Rissaldar. Sirdar Bahadoors and Bahadoors are to take rank only according to their respective Commissions of Rissaldar Major, Subadar Major, Rissaldar, Subadar, or Jemadar. Rissaldars and Rissaidars are to take rank with Subadars, according to the dates of their respective Commissions.

Death or absence of President.

In case of the death or unavoidable absence of the President, the next Senior Member shall take the place of President, and the trial shall proceed, if the Court shall still consist of not less than the smallest number of Members of which such Court is directed to consist by these Articles of War.

ARTICLE 98.

Revision of sentence.

No finding or sentence of a Court Martial shall be revised more than once, and no evidence shall be received on such revision except evidence relating to previous convictions and general character. For the purpose of such revision, the President and all the Members shall be convened if possible, but if any of them should be unavoidably absent, the remaining Members may proceed with such revision, provided they are not fewer than the smallest number for each description of Court Martial directed in these Articles respectively. When all the same Members do not meet, the circumstances are to be duly certified on the face of the proceedings.

ARTICLE 99.

Manner of voting.

The Members of a Court Martial are to preserve order, and in giving their votes upon all matters are to begin with the junior in rank. In all cases where a sentence of death is not awarded, the decision shall be by the

majority of Members present, provided the number of Members present be not less than that required by the preceding Articles. In case of an equality of votes, the decision shall be in favor of the prisoner. The President at a Court Martial shall vote with the other Members, and shall have no casting vote, except upon questions other than the finding and the sentence.

ARTICLE 100.

Sentence of Death.

No Court Martial shall pass a sentence of death unless two-thirds of the Members present concur in such sentence, or four concur where the Court consist of five Members, or five concur where the Court consist of seven Members.

Affirmations.

ARTICLE 101.

Interpreter's affirmation.

On the assembly of a Court Martial, the Judge Advocate or European Superintending Officer shall administer to the Interpreter the following affirmation:—

"I, A. B., solemnly affirm, in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of the Court, and that I will not divulge the sentence until it shall have been published by authority; and, further, that I will not disclose or discover the vote or opinion of any particular Member of the Court, unless required to give evidence thereof by a Court of Justice or Court Martial, in due course of law."

In case of the unavoidable absence of an Interpreter, the European Superintending Officer of a Court Martial, other than a General Court Martial, shall make the affirmation prescribed for the Interpreter.

Member's affirmation.

The Judge Advocate or Superintending Officer shall then cause the following affirmation to be made by each Member:—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will duly administer justice according to the Articles of War, without partiality, favor, or affection, and, if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of War in the like cases; and that

I will not divulge the sentence of the Court until it shall be published by authority; and further, that I will not disclose or discover the vote or opinion of any particular Member of the Court, unless required to give evidence thereof by a Court of Justice or a Court Martial in the due course of law."

Judge Advocate's affirmation.

The following affirmation shall then be administered by the interpreter to the Judge Advocate or Superintending Officer:—

"I, A. B., solemnly affirm, in the presence of Almighty God, that I will not, upon any account whatsoever, disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice or a Court Martial in due course of law, and that I will not, unless it be necessary for the due discharge of my official duties, disclose the sentence of the Court, until it shall be published by authority."

It shall be necessary to administer the foregoing affirmations on the commencement of every fresh trial before the same Court.

Article 102.

Witness's oath or affirmation.

Every person who gives evidence at a Court Martial shall be examined on oath or affirmation where an affirmation is allowed.

The affirmation shall be to the following effect:—

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

If any person after making such affirmation shall wilfully and falsely state any matter or thing which amounts to the offence of giving false evidence as defined in Article 64, such person shall be subject to the same punishment as persons convicted of that offence.

Article 103.

Summoning witness not amenable to these Articles.

When any person required as a witness before a Court Martial is not amenable to Military Law, the Judge Advocate or Officer Commanding shall apply to the Magistrate within whose jurisdiction the witness resides to cause his attendance before such Court Martial. Such Magistrate shall issue his summons

to such witness to attend before such Court Martial, in the same manner as if the witness were required in the Court of such Magistrate.

ARTICLE 104.

Record in the Regimental Books of absence without leave, and of the declaration of a Court of Enquiry thereon, to have the same effect as a conviction for desertion.

If any Officer or Soldier, subject to these Articles of War, shall have been illegally absent from his duty for the space of two months, a Regimental Court of Enquiry, composed of three Commissioned Officers, of whom all may be European or all Native, or one or more may be European and one or more Native, shall forthwith assemble, and having received proof of the fact on oath or affirmation, shall declare such absence and the period thereof; and the Officer Commanding the Regiment or Corps shall record the declaration of such Court of Enquiry thereon in the Regimental Books: and if such Officer or Soldier shall not afterwards surrender or be apprehended, such record shall have the legal effect of a conviction for desertion. If such Officer or Soldier shall surrender or be apprehended after such record shall have been so entered, such record, or copy thereof, purporting to bear the signature of the Officer having the custody of the Regimental Books, shall, on the trial of such Officer or Soldier on a charge for desertion, be admissible in evidence of the facts therein recorded; and on proof of the identity of the prisoner with the Officer or Soldier therein mentioned, he may be found guilty of desertion.

ARTICLE 105.

Proof of absence without leave for two months to be sufficient presumptive evidence of desertion.

If, upon the trial of any Officer or Soldier for desertion, it shall be proved that such Officer or Soldier has been absent without leave, or has overstayed his leave, for the space of two months, such proof shall be deemed sufficient presumptive evidence of the desertion of such Officer or Soldier, and shall be sufficient to convict him of the offence of desertion, unless he shall prove that such unauthorised absence was not wilful on his part, or shall otherwise rebut the presumption of desertion arising from proof of his absence without leave.

ARTICLE 106.

If, upon the trial of such Officer or Soldier for desertion, or for

Reference to Government Officer as to the truth of statement concerning cause of absence.

absence without leave, he shall state in his defence that his unauthorised absence was not wilful, or that he was detained in his village from sickness, or shall advance any other sufficient excuse for his absence, or any matter sufficient to rebut any presumptive evidence of desertion, and shall refer to any European Civil or Military Officer of Government in support of his statement; or if it shall appear to the Court Martial that the truth or falsehood of such statement may be ascertained by reference to any such Civil or Military Officer of Government, it shall be the duty of the Court to address such Civil or Military Officer on the subject, and to adjourn the proceedings until the reply of such Officer is received. The reply of such Officer, if favorable to the prisoner, shall be admissible in evidence, and have the same effect as if the statement had been made before the Court by such Officer in person on oath or affirmation, and proof of the handwriting of such Officer shall not be necessary. Should any Court before which a prisoner is being tried be dissolved prior to the receipt of the reply to any communication made under this Section to any Civil or Military Officer, a fresh Court may be ordered, and the trial shall be commenced anew before such Court.

ARTICLE 107.

Powers and duties of Provost Marshals.

For the prompt and instant repression of irregularities and crimes which may be committed by troops in the field and on the line of march, Provost Marshals shall be appointed by the Commander-in-Chief of the Presidency or the Officer Commanding the forces in the field, and the powers of such Provost Marshals shall be regulated according to the established usages of war and Rules of the service.

The duties of the Provost Marshal so appointed are to take charge of prisoners confined for offences of a general description; to preserve good order and discipline; and to prevent breaches of the same by Soldiers and followers of the Army. The Provost Marshal may punish on the spot on the same day any Soldier or follower who, in his view, or in the view of any of his assistants shall commit any breach of good order and Military discipline. Provided that the punishment be limited to the necessity of the case, and accord with the orders which the Provost Marshal may,

from time to time, receive from the Officer Commanding the troops. If the Provost Marshal or any of his assistants shall not see the offender actually commit the crime but sufficient proof can be obtained of the offender's guilt, a report shall be made to the Commander of the troops, who is empowered to deal with the case as he may deem most conducive to the maintenance of good order and Military discipline.

ARTICLE 108.

Trials by European Courts Martial.

In any Presidency where the Native troops have hitherto been authorized to claim to be tried by European Courts Martial every person amenable to these Articles of War who is under orders for trial by a Court Martial, may, as of right, claim to be tried by European Officers. When such claim is made, the Court, whether a General, District, Garrison, or Regimental Court Martial, shall be composed of European Commissioned Officers, and the number of Members and the proceedings shall be governed in all respects by the provisions of these Articles.

It shall be competent to the Governor General of India in Council, by a General Order, to extend the privilege of claiming to be tried by European Courts Martial to any Native Troops.

It shall further be competent to the Governor General of India in Council, or to the Governor in Council of the Presidency, by an Order in Council, to direct that any Court Martial may be composed of European Commissioned Officers. The proceedings of such Courts Martial shall be regulated in every respect as directed in these Articles of War for Native Courts Martial, except that it shall not be necessary to appoint an Officer to conduct the proceedings of such Court Martial.

ARTICLE 109.

Governor General in Council may, by Order, empower Generals, &c., to appoint General or District or Garrison Courts Martial.

It shall be competent to the Governor General of India in Council, or the Governor in Council of any Presidency, from time to time, by an Order in Council, to empower every General or other Officer having the Command of troops in the service of Her Majesty, or any such General or other Officer, to appoint General or District or Garrison Courts Marshal, as occasion may require, for the trial of

any Officers, Soldiers, or Followers, subject to these Articles of War, who may be charged with any offence punishable by the said Articles, which, in the judgment of such General or other Officer, requires to be punished without delay: and also to confirm and carry into effect, immediately or otherwise, any sentence of such Court Martial, or to commute, mitigate, or remit any such sentence; or, if he shall deem it necessary, to refer any such sentence to the Commander-in-Chief of the Presidency for his orders.

Any General Court Martial, which may be appointed under the authority of this Article, shall be appointed by the Senior Officer on the spot, and shall consist of not less than five Commissioned Officers, the number to be fixed by the General or other Officer appointing the Court Martial. The order in Council may direct that a General Court Martial, to be appointed under the provisions of this Article, shall consist wholly of European Commissioned Officers or of Native Commissioned Officers; and in such case, the Officer appointing the Court Martial shall determine whether the same shall consist of European Officers or of Native Officers. Every General Court Martial appointed under the authority of this Article shall have all the powers of a General Court Martial specified in the 78th Article, and sentence of death, or other punishment to which the offender is liable by these Articles, may be awarded by such Court Martial, if a majority of the Members present concur in the sentence.

It shall not be necessary to appoint a Judge Advocate to conduct the proceedings of a European Court Martial under this Article.

Chapter IV.—Effects of the Dead.

Article 110.

Commanding Officer to secure the effects of the dead, and to direct an inventory to be taken.

When any Officer or soldier dies or is killed in the service, or any other person, receiving public pay, who is subject to these Articles of War in any department belonging to the Army, dies or is killed in the field, the Officer Commanding the Regiment, Corps, or Detachment, or the Officer in charge of the department to which such Officer or Soldier or other person belongs, shall, if

no heir or executor be present, secure his effects, and direct an inventory thereof to be taken. A duplicate shall be lodged in the Office of the Adjutant, or Officer in charge of the department to which such Officer, Soldier, or other person belongs.

ARTICLE 111.

Sale of effects.

If there be no heir or executor on the spot, the effects are to be publicly sold. The Officer Commanding the Regiment, or Corps, or Detachment, or the Officer in charge of the department to which the deceased Officer, Soldier, or other person belonged, after discharging the debts of the deceased, namely, the expense of funeral ceremonies, his debts in camp or quarters, and Regimental debts of every description, shall account for the residue to the heir or heirs declared by will, whether written or verbal, or nominated in the Regimental register, or in failure of such, to the legal representative of the deceased; and in the event of no executor, heir, or other representative of the deceased attending and establishing his claim within twelve months from the date of the casualty, the amount in the hands of the Officer having charge of the estate shall be remitted to the General Treasury at the Presidency.

ARTICLE 112.

Sale of deserter's effects.

The effects of deserters are to be publicly sold, and the proceeds, after payment of Regimental debts, remitted by the Officer Commanding the Regiment or Corps to which the deserter belongs, to the General Treasury at the Presidency, or appropriated according to the rule obtaining in such Presidency.

CHAPTER V.—MISCELLANEOUS.

ARTICLE 113.

Construction of the Articles as regards a Commander-in-Chief.

All powers and provisions contained in these Articles relating to a Commander-in-Chief shall, unless when otherwise provided, be construed to extend to the Officer Commanding the Forces for the time being in any Presidency.

ARTICLE 114.

Construction of the Articles as regards Soldiers.

All powers and provisions contained in these Articles relating to Soldiers shall be construed to extend to Non-Commissioned Officers, unless when otherwise provided.

ARTICLE 115.

Troops serving out of their own Presidency.

When any portion of the troops belonging to any Presidency shall be serving within the limits of any other Presidency, such troops shall be considered as placed, during such service, under the orders and authority of the Commander-in-Chief or other Officer Commanding the Forces of the Presidency within which they are serving, for all the purposes of these Articles of War, in the same manner as if they belonged to such Presidency; and all the provisions of these Articles of War, which relate to the trial and punishment of offenders belonging to the Presidency within which the trial is held, are hereby declared applicable to the trial and punishment of offenders serving within such Presidency. Provided that it shall be lawful for the Governor General of India in Council, to direct that the troops, or any part thereof, of any Presidency, whilst serving without the limits of such Presidency, shall continue under the orders and authority of the Commander-in-Chief or Officer Commanding the Forces of the Presidency to which they belong for all the purposes of these Articles.

ARTICLE 116.

Assembling Courts Martial in foreign territories.

Any Officer Commanding any portion of Her Majesty's troops serving in any place out of Her Majesty's Territories, or out of the Territories of those States in alliance with Her Majesty in which Her Majesty's Forces are permanently stationed, shall, upon complaint made to him of any offence committed against the property or person of any inhabitant or resident in any such place by any person serving with, or belonging to, Her Majesty's Army, being under the immediate command of such Officer, summon and cause to assemble a General Court Martial, which shall consist of not less than three Officers, for the purpose of trying any such person, notwithstanding such Officer shall not have received any warrant empowering him to assemble Courts Martial;

and every Court Martial so assembled shall have the same powers in regard to summoning and examining of witnesses, the trial of and sentence upon such person, as are granted by these Articles to General Courts Martial. Provided that no sentence of any such Court Martial shall be executed until the Officer Commanding-in-Chief the Force to which the person so convicted and sentenced belongs, shall have approved and confirmed the same; except where such sentence shall not exceed the powers granted by these Articles to a District or Garrison Court Martial, in which case the Officer by whom the Court is convened is authorized to confirm, and commute, or mitigate, or remit the same; reporting the proceedings to the Officer Commanding-in-Chief.

ARTICLE 117.

[Repealed by Act V., 1863, s. 2.]

ARTICLE 118.

Complaints against Superior Officers.

Any Officer or Soldier, who thinks himself wronged by his Superior or other Officer, is to complain thereof to the Officer Commanding his troop or company; and if his grievance be not redressed, may further complain to the Officer Commanding the Regiment or Corps to which he belongs, who is hereby required to examine into such complaint, or remit it to his Superior authority, as the circumstances may require. If the complaint so preferred to the Commanding Officer should appear to be frivolous or groundless, the Officer or Soldier preferring it shall be liable to be punished according to the sentence of a General or other Court Martial; provided that such Officer or Soldier shall not on such account be liable to be sentenced to dismissal, nor to suffer corporal punishment or imprisonment with hard labor.

ARTICLE 119.

Prisoners of War.

Any Officer or Soldier, who shall be taken prisoner by the enemy, shall forfeit all claim to pay and allowances during the period of his remaining a prisoner, and until he shall again return to the service. If such Officer or Soldier can then establish, before a Court Martial, that he was unavoidably taken prisoner in the course of service, that he resisted as long as he was able, that he did not

or assist the enemy, and that he returned as soon as possible to the service, he shall be entitled, after the finding of such Court Martial shall have been confirmed by the Commander-in-Chief of the Presidency, to receive either the whole or such portion of his arrears of pay and allowances as the Local Government shall determine.

ARTICLE 120.

Subsistence allowance to prisoners not dismissed.

Every Officer, or Soldier, or follower, in receipt of any public pay, who is imprisoned under the sentence of a Court Martial, or a commuted sentence, or under the sentence of a Court of Criminal Judicature, shall, during the term of such imprisonment, if such imprisonment does not involve dismissal under Article 91, receive subsistence only, to the amount of his pay proper, according to the rates laid down in the Regulations.

ARTICLE 121.

Sentences of transportation for a term of years, passed for offences, punishable with transportation for life, rendered valid.

When, before the passing of these Articles of War, any Court Martial or any Special Commissioner shall have sentenced any person subject to the Articles of War for the Native Army in force at the date of such sentence, to transportation for any term less than the term of his life, for an offence punishable under the Articles then in force with transportation for life, such sentence, to the extent of the punishment awarded thereby, shall be deemed as valid and effectual as if the offender had been sentenced to transportation for life.

ARTICLE 122.

Sentence of imprisonment with hard labor passed for offences punishable with simple imprisonment or corporal punishment, rendered valid.

When, before the passing of these Articles of War, any Court Martial or any Special Commissioner shall have sentenced any person subject to the Articles of War for the Native Army in force at the date of such sentence to imprisonment with hard labor for an offence for which by the Articles of War then in force a sentence of simple imprisonment only could lawfully be passed, such sentence shall be deemed valid and effectual; and all persons are hereby exonerated for any thing done in pursuance of such sentence.

ARTICLE 123.

Sentences passed by Officers Commanding Regiments, exercising Magisterial powers, rendered valid.

When, before the passing of these Articles of War, any Officer Commanding a Regiment or Corps, and exercising Magisterial powers, shall have sentenced to punishment any person subject to the Articles of War for the Native Army in force at the date of such sentence, such sentence shall be deemed valid, and shall be carried into effect, notwithstanding that such sentence was passed by such Officer in any part of the British Territories where he was not authorised to exercise such Magisterial powers. Provided that such sentence be one which it would have been within the competency of such Officer to pass within the Territories where he was authorised to exercise such powers.

CHAPTER VI.—MODE OF DEALING WITH OFFENCES NOT MILITARY.

ARTICLE 124.

Persons charged with offences cognizable by the criminal power to be delivered over to the Magistrate.

When any Officer or Soldier, in any place within the jurisdiction of any Criminal Court established by Her Majesty or the Government of India or any Local Government is accused of any offence triable by such Court, he shall be delivered over to a Magistrate to be proceeded against according to law. All Officers and Soldiers are hereby required to assist the Officers of Justice in apprehending and securing any person so accused.

ARTICLE 125.

Crimes to be tried by Courts Martial where no regular Criminal Tribunals exist.

In any place out of the British Territories in India, such offences, when committed by Officers or Soldiers, shall be cognizable by Courts Martial.

ARTICLE 126.

Offences cognizable by General Courts Martial.

General Courts Martial shall have cognizance of offences punishable with

Death;

Transportation;

Imprisonment for a period that may extend to seven years or to fourteen years.

ARTICLE 127.

Offences cognizable by District or Garrison Courts Martial.

District or Garrison Courts Martial shall have cognizance, ordinarily, of offences punishable with imprisonment for a period which may extend to three years. District or Garrison Courts Martial shall also, by special order of the Officer Commanding the Forces, have cognizance of offences of which a General Court Martial may take cognizance (not punishable with death or transportation for life), with power to sentence to imprisonment for any such offence for a period which may extend to three years.

ARTICLE 128.

Offences cognizable by Regimental, Detachment, or Line Courts Martial.

Regimental, Detachment, or Line Courts Martial, shall have cognizance, ordinarily, of offences punishable with imprisonment for a period not exceeding six calendar months, and, by special order of the Officer Commanding the Forces, of offences ordinarily cognizable by District or Garrison Courts Martial, with power to sentence persons convicted of such offences to imprisonment for a period not exceeding six calendar months.

General Courts Martial.

ARTICLE 129.

Punishment of death.

Any Officer or Soldier who shall be convicted by a General Court Martial of causing death, shall be deemed to have committed murder—

1st. If the act by which death was caused, was done with the intention of causing death; or

2nd. If it was done with the intention of causing such bodily injury as the offender knew to be likely to cause death of the person to whom the harm was caused; or

3rd. If it was done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death; or

4th. If the person committing the act knew that it was so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death; and if he

committed such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Any Officer or Soldier convicted of murder, shall be sentenced to be hanged by the neck till he is dead, or to transportation for life.

ARTICLE 130.

Offences punishable by imprisonment or transportation for life.

Any Officer or Soldier who shall be convicted by a General Court Martial of any of the offences hereinafter mentioned, accompanied with an attempt to commit murder, or with wounding or other corporal injury to any person, endangering the life of such person, that is to say—

1*st.* Breaking, or attempting to break, by day or night, into any dwelling-house, tent, boat, or other habitation, or into any building or place used for preservation of property, with the intent to rob or steal;

2*nd.* Robbery or attempt to rob;

3*rd.* Stealing or attempting to steal in a house, or from the person—

Shall be sentenced by such General Court Martial to transportation for life, or for any period not less than seven years, or to imprisonment with hard labor for a period that may extend to fourteen years.

ARTICLE 131.

Robbery, &c., accompanied with wounding, &c., not endangering life.

Any Officer or Soldier who shall be convicted by a General Court Martial—

Of any offence specified in Clauses 1, 2, and 3 of the last Article, accompanied with wounding or other corporal injury to any person, not endangering the life of such person; or

ARTICLE 132.

Robbery by open violence or dacoity.

Of robbery by open violence, or dacoity, that is to say, going forth in the day or in the night with an offensive weapon, or in a gang with or without an offensive weapon, with the intention of committing robbery, and by force or intimidation robbing, or attempting to rob, any person in any place, or attacking by open violence any house, or place of habitation, or any place in which property may be kept, for the purpose of robbery: or

ARTICLE 133.

House-breaking by night.

Of breaking, or attempting to break into any dwelling-house, tent, boat, or other place of habitation, between sunset and sunrise, with intent to rob or steal; or

ARTICLE 134.

House-breaking and stealing.

Of breaking into any such place of habitation, or into any place used for the preservation of property, and stealing therefrom property the value of which shall exceed one hundred Rupees; or

ARTICLE 135.

Buying or receiving stolen property.

Of purchasing or receiving plundered or stolen property, knowing it to have been obtained by robbery, by open violence, or by theft or robbery, aggravated as described in Article 130 or Article 131; or

ARTICLE 136.

Unnatural crime.

Of an unnatural crime; or

ARTICLE 137.

Rape.

Of Rape:—

Shall be sentenced by such General Court Martial to imprisonment with hard labor for a period not exceeding fourteen years.

ARTICLE 138.

Culpable homicide not amounting to murder.

Any Officer or Soldier who shall be convicted by a General Court Martial—

Of the offence of culpable homicide not amounting to murder; or

ARTICLE 139.

Wounding with intent to murder.

Of the offence of wounding, or otherwise causing any corporal injury to any person with intent to murder, whether the person wounded or otherwise injured be the person whom the offender intended to murder, or another; or of attempting to commit murder by any means whatsoever;

Shall be sentenced by such General Court Martial to imprisonment with or without hard labor for a period not exceeding fourteen years.

ARTICLE 140.

Any Officer or Soldier who shall be convicted by a General Court Martial—

Premeditated affray, attended with culpable homicide.

Of premeditated affray, attended with culpable homicide not amounting to murder, or severe wounding, or other aggravating circumstance; or

ARTICLE 141.

Intentionally doing corporal injury.

Of intentionally wounding, maiming, or otherwise doing corporal injury to any person; or

ARTICLE 142.

Accidentally doing corporal injury to one person when intended to be done to another.

Of accidentally, wounding, maiming, or otherwise doing corporal injury to any person with the intention of doing such injury to another person; or

ARTICLE 143.

House-breaking, by night.

Of breaking into any dwelling-house, tent, boat, or other place of habitation, or into any place used for the preservation of property, between sunrise and sunset, with intent to steal therein; or

ARTICLE 144.

Theft in a dwelling-house.

Of stealing from any habitation, or from any person, any property exceeding three hundred Rupees in value; or

ARTICLE 145.

Buying or receiving stolen property exceeding 300 Rupees in value.

Of having purchased or received any property so stolen, exceeding in value three hundred Rupees, knowing it to have been stolen; or

ARTICLE 146.

Arson.

Of Arson; or

ARTICLE 147.

Enticing unmarried woman under 15 years.

Of enticing and taking away, or of causing to be enticed or taken away for any unlawful purpose any unmarried woman under the age of fifteen years; or

ARTICLE 148.

Stealing children under 8 years.

Of stealing a child under the age of eight years; or

ARTICLE 149.

Counterfeiting or fabricating Deed, &c.

Of Counterfeiting or causing or procuring the fraudulent fabrication or alteration of any written deed or printed paper of any description; or any counterfeit seal or signature thereto; or the illicit imitation of any public stamp or stamped paper issued by Government; or of using, selling, or disposing of such stamped paper, knowing the same to be counterfeit; or of fraudulently issuing and publishing as true, or of fraudulently giving effect to any fabricated deed or paper knowing it to be a forgery; or

ARTICLE 150.

Counterfeiting coin, &c.

Of forging, or procuring to be forged, any counterfeit coin, in imitation of any of the gold, silver, or copper coin of the Government of India, or of any coin usually received as money in the British Territories in India; or of clipping, filing, drilling, or defacing any such coin; or of paying or tendering in payment counterfeit coin, Bank Notes, or other securities for money, knowing the same to be counterfeit, although such Notes or securities shall be incomplete;

Shall be sentenced by such General Court Martial to suffer imprisonment with or without hard labor for any period not exceeding seven years.

District or Garrison Courts Martial.

ARTICLE 151.

Powers of District or Garrison Courts Martial.

It shall be competent to the Commander-in-Chief of the Presidency, and to any officer having authority to convene District or Garrison Courts Martial, to cause offenders, not being Commissioned Officers accused of any of the offences specified in these Articles of War, except offences for which the punishment of death or transportation for life is provided, to be tried for such offences before a District or Garrison Court Martial, and such Court shall have power, on conviction, to sentence any such offender to imprisonment with or without hard labor for any period not exceeding three years.

ARTICLE 152.

Stealing property not exceeding 300 Rupees, but exceeding 50 Rupees in value.

Any Officer or Soldier who shall be convicted by a General, District, or Garrison Court Martial—

Of stealing from any habitation, or from the person, any property of value not exceeding three hundred Rupees, but exceeding fifty Rupees; or

ARTICLE 153.

Buying or receiving stolen property not exceeding 300 Rs. in value.

Of having purchased or received any stolen property of value not exceeding three hundred Rupees, knowing it to have been stolen, but not under aggravating circumstances; or

ARTICLE 154.

Dishonestly having stolen property in his possession.

Of dishonestly having stolen property in his possession, and of having dishonestly kept possession of such property after becoming aware of its having been stolen;

Punishable with imprisonment not exceeding three years.

Shall be sentenced by such Court to suffer imprisonment with or without hard labor for any period not exceeding three years.

Regimental, Detachment, or Line Courts Martial.

ARTICLE 155.

Offences punishable by imprisonment not exceeding six months.

It shall be competent to any Officer having authority to convene a Regimental, Detachment, or Line Court Martial, to cause offenders not being Commissioned Officers, accused of any of the offences specified in these Articles of War, for which no punishment exceeding imprisonment with hard labor for three years is therein provided, to be tried before Regimental, Detachment, or Line Courts Martial, and any such Court shall have power, on conviction, to sentence any such offender to suffer imprisonment with or without hard labor for any period not exceeding six calendar months.

ARTICLE 156.

Any Officer or Soldier, who shall be convicted—

Stealing property not exceeding 50 Rupees in value.

Of stealing property not exceeding fifty Rupees in value; or

ARTICLE 157.

Simple assault or affray.

Of assault or affray, unattended with homicide, severe wounding, or aggravating circumstances—

Punishable with imprisonment not exceeding one year if awarded by General, District, or Garrison Court Martial; or not exceeding six months if awarded by a Regimental, Detachment, or Line Court Martial.

May be sentenced to suffer imprisonment with or without hard labor for any period not exceeding one year, by the award of a General, or District, or Garrison Court Martial; or for any period not exceeding six calendar months, by the award of a Regimental, or Detachment, or Line Court Martial.

Offences punishable by imprisonment from six months to two years, according to the description of the Court.

ARTICLE 158.

Resisting process of a Magistrate or Police Officer.

Any Officer or Soldier, who shall be convicted—

Of resisting the process of a Magistrate or Police Officer; or

ARTICLE 159.

Committing any offence not already provided for.

Of having committed any offence against person or property for which provision is not already made in the preceding Articles of War;

Punishable with imprisonment not exceeding two years if awarded by General Court Martial, not exceeding one year if by District or Garrison Court Martial, and not exceeding six months if by a Regimental, Detachment, or Line Court Martial.

May be sentenced to suffer imprisonment for any period not exceeding two years by the award of a General Court Martial, for any period not exceeding one year by the award of a District or Garrison Court Martial, and for any period not exceeding six calendar months by the award of a Regimental, or Detachment, or Line Court Martial.

ARTICLE 160.

Offence of aiding and abetting.

Any Officer or Soldier, who shall be convicted by a General, or District, or Garrison, or Regimental Court Martial, of having been present, aiding and abetting, or of having caused, instigated, or procured, the commission of any of the offences specified in any of these

Articles, shall be sentenced by such Court to any punishment in these Articles provided for such offence, and within the competency of such Court to award.

ARTICLE 161.

Sentence of death.

No sentence of death shall be carried into effect until confirmed by the Commander-in-Chief of the Presidency to which the person on whom such sentence is passed belongs; or if such person is attached to the force of any Presidency, but is serving with a force in any place out of British India, until it be confirmed by the Officer Commanding such force; or if such person belongs to a force in any part of India not under the Commander-in-Chief of any Presidency until confirmed by the Officer Commanding such force.

ARTICLE 162.

Confirmation, remission, or commutation.

The Commander-in-Chief, or other Commanding Officer as provided in the last Article, is authorized at his discretion to confirm any sentence of death, and to remit such sentence, or to commute it to transportation for life, or for a period not less than seven years, or to imprisonment with hard labor for any period not exceeding fourteen years.

ARTICLE 163.

Transportation.

No sentence of transportation shall be carried into effect until confirmed by the Commander-in-Chief, or other Commanding Officer as provided in Article 161, and the Commander-in-Chief, or such other Commanding Officer, is authorized at his discretion to remit such sentence or to confirm it, or to commute it to imprisonment with or without hard labor for any period not exceeding fourteen years. Provided that, if the sentence of transportation be for any period less than fourteen years, the imprisonment in commutation shall not be for any longer period.

ARTICLE 164.

Remission or mitigation.

It shall be competent to any Officer having authority to confirm the sentence of a General or other Court Martial, and to remit any sentence passed by such Court Martial, or to mitigate such sentence by substituting simple imprisonment for imprisonment with hard labor, or by

reducing the period of imprisonment, or by directing the discharge of the offender in lieu of any imprisonment.

ARTICLE 165.

No person to be tried a second time for the same offence.

Any person who shall have been tried by a Court Martial for any offence under the authority of these Articles of War, shall not be tried for the same offence in any other Court whatsoever, except as provided in Article 119; and no person who shall have been acquitted or convicted of any offence by any Court of Judicature, shall be punished for the same offence by a Court Martial. But such person may be discharged from the service.

ARTICLE 166

[Repealed by Act V., 1863, s. 2.]

CHAPTER VII.—APPLICATION OF THE ARTICLES.

ARTICLE 167.

Persons amenable to these Articles.

All Officers and Soldiers, Drivers, Farriers, Trumpeters, Drummers, unattested Recruits, Sub-Assistant Surgeons, Native Doctors, Hospital Attendants, Dressers, Artificers, and Laborers, Sutlers, Followers, public and private, or others attached to or serving with any part of the Army, are to be governed by these Articles, and to be subject to trial and punishment by Courts Martial.

Provided that all Drivers, Farriers, Trumpeters, Drummers, Recruits, Sub-Assistant Surgeons, Native Doctors, Hospital Attendants, and Dressers, hereafter enlisted, shall be attested according to the Regulations of the Presidency to which they belong.

Persons of European descent (whether on the side of their father or mother) professing the Christian religion, if belonging to the descriptions mentioned in this Article (and not being Her Majesty's natural-born subjects born in Europe, or the children of such subjects), shall be tried for Military offences by Courts Martial composed of European Officers only, and punished according to these Articles of War. For Criminal or Non-Military offences such persons shall not be amenable to these Articles of War, but shall be tried and punished in the same

manner as persons who are subject to the Mutiny Act and Articles of War in force for the better government of the European Officers and Soldiers of Her Majesty's Indian Forces.

ARTICLE 168.

Promulgation of the Articles.

These Articles are to be translated into the several languages of the different Presidencies; and the following Articles, namely, the 2nd, 3rd, and 4th, the 5th to the 69th, both included; the 78th, 81st, 82nd, 110th, and 118th, are to be read once every three months at the head of every Regiment or Corps, Troop, or Company in the service, and to every recruit at the period of his attestation.

ARTICLE 169.

Commencement of Act.

These Articles of War shall take effect on and from the 1st day of November, 1861.

By Act XXVI., 1865, Article 83 is repealed, and a new provision substituted.

BENGAL MILITARY ORPHAN SOCIETY.

ACT No. XXX. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites the expediency of registering the Bengal Military Orphan Society under Act XXI., 1860; and directs that it may be done on the assent of three-fifths of the members personally present.

An Act to enable the Bengal Military Orphan Society to register under Act XXI. of 1860 (for the Registration of Literary, Scientific, and Charitable Societies).

Obsolete.

NORTH-WESTERN PROVINCES.—SALTPETRE MANUFACTURE.

ACT No. XXXI. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites expediency of regulating the manufacture of Saltpetre, and the sale of Salt educed therefrom, &c.

1—4. Prohibits the manufacture of Saltpetre, &c., except under license; and (2) prohibits the manufacturer from separating the Salt, &c., from the

Saltpetre, unless expressly licensed; (3) the license to be for a year, and contain specified particulars; and (4) 2 Rupees to be paid for Saltpetre license, and not exceeding 100 Rupees for license to separate the Salt, &c.

5—7. Makes the Salt educed in the process liable to the ordinary Salt duty; and (6) imposes a penalty for infraction of the law; but (7) manufacturer may compound with Government for the Salt duty.

8, 9. Places every Saltpetre manufactory in the North-Western Provinces, and a certain space round, under the Customs jurisdiction, and extends Acts XIV., 1843, and XXXVI., 1855, to such places, &c.; and (9) out of the North-Western Provinces, gives to Collectors, &c., the same powers as Customs Officers in the North-Western Provinces.

10. Empowers the Local Governments to make rules, &c., for securing the duty, &c., in places to which the Act may be extended.

11. The manufacture of Russee, Sujjee, and other saline substances, &c., to be under the provisions of the Act.

12. Establishes distress and sale of offender's goods, for the levy of penalties and forfeitures.

13. Authorizes the Local Government to cancel the license of offenders against the Act, and the Collector of Customs to destroy the works of the offender.

14—16. In default of payment of any penalty the offender may be apprehended, &c., until distress warrant can be returned; and (15) if it be returned that there is no sufficient distress, the offender may be committed to prison for a term, &c., unless he be a European British subject; in whose case (16) the Magistrate shall send the record to the District Court for execution as on case of decrees of Civil Court.

17. Saves existing Regulations respecting licenses.

18. Act to take effect in North-Western Provinces from 1st December, 1861, and may be extended to other parts of British territory.

An Act to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof.

Preamble.

Whereas it is expedient to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof, it is enacted as follows:

Unlicensed manufacturing, &c., of Saltpetre prohibited.

I. From the time when this Act shall come into operation, it shall not be lawful for any person in the North-Western Provinces of the Presidency of Bengal, or in any other part of the British territories in India to which this Act shall be extended in the manner hereinafter provided, to manufacture or refine Saltpetre, or to separate or purify any Salt which may be educed in the process of manufacturing or refining Saltpetre, except under a license from the Local Government. The license may be granted

either for the manufacture of Saltpetre alone, or for the manufacture and refining of Saltpetre and the separation and purification of Salt educed in the process of such manufacture and refining.

Unlicensed manufacturer prohibited from separating, &c., Salt educed in the manufacture of Saltpetre.

II. It shall not be lawful for any manufacturer of Saltpetre, not being licensed to manufacture and refine Saltpetre, and to separate and purify the Salt educed in the process of the manufacture of Saltpetre, to separate any Salt from any earth or other substance yielding Salt.

Duration and form of license.

III. Every license granted under this Act shall have effect for one year from the date of such license, and shall contain the name of the proprietor of the manufactory or manufactory and refinery of Saltpetre licensed, and of the locality of such manufactory or refinery.

Fees for licenses.

IV. For every license to manufacture Saltpetre there shall be charged a fee not exceeding two Rupees, and for every license to manufacture and refine Saltpetre, and to separate and purify Salt in the process of such manufacture and refining, a fee not exceeding one hundred Rupees. The Local Government shall, within the limits aforesaid, fix the amount of the fee to be paid for such licenses respectively.

Salt educed in the manufacture of Saltpetre liable to full Government Duties.

V. The Salt educed in the process of manufacturing or refining Saltpetre by any person licensed to separate and purify Salt as aforesaid (whether the same shall be purified or not) shall be liable to the full Government Duty on Salt in the Presidency or place in which such Salt is separated, educed, or purified, and such Duty shall be levied on or before such Salt is removed from the place of manufacture.

Penalty.

VI. If any person shall manufacture or refine Saltpetre or separate or purify any Salt educed in the process of manufacturing or refining the same, without a license under this Act, or, being licensed only to manufacture Saltpetre, shall separate any Salt in the manufacture thereof, or, being licensed to manufacture and refine Saltpetre, shall (except as provided in the next Section) allow any Salt

separated in the manufacture or refinement of Saltpetre to be removed from the place of manufacture or refinery without the full amount of Government Duty thereon being first paid, he shall be liable to a fine of five hundred Rupees, and on non-payment thereof, to imprisonment with or without hard labor for a period not exceeding six months. [Amended by Act XXXIII., 1867, as respects amount of the fines; that is, by altering it to "not exceeding."]

Composition of Duties.

VII. It shall be lawful for the Local Government to compound with any person licensed under this Act to manufacture and refine Saltpetre, and to separate and purify Salt educed in the process of such manufacturing and refining, for the Duty payable on the Salt estimated to be separated by such person. The composition shall be made for one year only, and may be annually renewed, and shall be in such form, and subject to such provisions and pecuniary penalties, as the Local Government shall prescribe. Such provisions and penalties shall be expressed in such license, and the person licensed shall sign a bond embodying such provisions and penalties, and binding him to the fulfilment of all conditions of such license.

Manufactories in the North-Western Provinces to be within Customs jurisdiction.

VIII. Every manufactory of Saltpetre in the North-Western Provinces licensed under this Act, and a space not exceeding one hundred yards around such manufactory if the manufactory be also a refinery of Saltpetre, and not exceeding fifty yards if the manufactory be licensed for the manufacture of Saltpetre only, to be fixed by the Local Government under Section III. of Act XIV. of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*), shall be included in the Customs jurisdiction of the said Provinces; and the provisions of the said Act XIV. of 1843, and of Act XXXVI. of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), shall apply to Salt manufactured, separated, or purified contrary to the provisions of this Act, and to such Customs jurisdiction.

Acts XIV. of 1843, and XXXVI. of 1855, applicable.

In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors, &c.

IX. In other parts of the British Territories in India to which this Act shall be extended in the manner hereinafter provided, the powers conferred by the said Acts XIV. of 1843, and XXXVI. of 1855, on Collectors and other Officers of Customs and Police Officers respectively, may be exercised by the Magistrates and Police Officers (not being under the grade of a Jemadar or Head Officer of a Police Station) in their respective Districts.

Local Government may frame rules.

X. It shall be lawful for the Local Government of the North-Western Provinces, and of any other Presidency or place to which this Act shall be extended as hereinafter provided, to frame rules, which shall not be contrary to the provisions of this Act, for securing the Duty payable on Salt separated or purified under licenses to manufacture and refine Saltpetre, and to separate and purify Salt educed in manufacturing and refining the same, for compositions under Section VII. of this Act, and for the removal of Salt for which composition has been made, and otherwise to give effect to this Act. Such rules shall be published in the Official Gazette of such Local Government, and shall have the same force and effect as if they were contained in this Act.

To what substances, &c., this Act is applicable.

XI. The provisions of this Act, wherever it may be in force, shall apply to the manufacture of Russee, Sujjee, and all other substances manufactured from saline earth, and of Kharee Noon, or Glauber's Salt, and every other form of Sulphate of Soda, and to the works at which any such substance is manufactured.

Levy of forfeitures and penalties by distress.

XII. All forfeitures or penalties imposed under the authority of this Act shall be recoverable by any Magistrate of Police, or by the Magistrate or other Officer exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers.

Cancellation of license and destruction of works of offenders.

XIII. When any penalty is awarded for the breach of the conditions of any license under this Act, or against the holder of any license for any

offence under this Act, the Local Government may cancel such license. The Officer who convicts the offender may also, on the application of the Commissioner of Customs or of the Collector of Customs within whose jurisdiction the offence is committed, or other Officer authorized in that behalf by the Local Government, order the works of such offender, at which such offence was committed, to be destroyed.

Procedure until return is made to warrant of distress.

XIV. In case any penalty awarded under this Act shall not be forthwith paid, the Officer by whom such penalty is awarded may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

XV. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of Fines from European British subjects.

XVI. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Act not to affect provisions of other laws relating to licenses.

XVII. Nothing in this Act shall be construed to alter or affect the provisions of any other law or Regulation relating to licenses.

Commencement and operation of Act.

XVIII. This Act shall take effect in the North-Western Provinces on the 1st day of December 1861, and may be extended to any other parts of the British territories in India, by an order of the Governor General of India in Council to be published in the Official "Gazette."

LIMITATION OF SUITS.

ACT No. XXXII. OF 1861.

[*Received the assent of the G. G. on the 7th Sept.*, 1861.

Recites expediency of postponing part of Act XIV., 1859, for a time.

Postpones part of Section I., Clause 8, of that Act, till the 1st July, 1862.

An Act to postpone the operation of a portion of Clause 8, Section I., of Act XIV. of 1859 (to provide for the Limitation of Suits).

Obsolete.

CODE OF CRIMINAL PROCEDURE.

ACT No. XXXIII. OF 1861.

[*Received the assent of the G. G. on the 22nd Nov.*, 1861.

Recites expediency of amending Schedule of Code of Criminal Procedure.

1, 2. Amends the words "Court of Session or Magistrate of Districts" in Column 7 of Schedule of Code of Criminal Procedure, referring to Section 379; and (2) amends the same words in 2 Clauses of Column 7 referring to Section 457 of Indian Penal Code.

3. Act to be read as part of Code of Criminal Procedure.

An Act to amend the Schedule annexed to the Code of Criminal Procedure.

Whereas it is expedient to amend the Schedule annexed to the Code of Criminal Procedure, it is enacted as follows:

Amendment of the Schedule as regards Section 379 of the Penal Code.

I. In lieu of the words "Court of Session or Magistrate of the District" in Column 7 of the Schedule annexed to the Code of Criminal Procedure, referring to Section 379 of the Indian Penal

Code, there shall be read the words "Court of Session or any Magistrate."

Amendment of the Schedule as regards Section 457 of the Penal Code.

II. In lieu of the words "Court of Session or Magistrate of the District" in the two Clauses of Column 7 of the said Schedule referring to the provisions contained in Section 457 of the Indian Penal Code, there shall be read the words "Court of Session or Magistrate of District, or Subordinate Magistrate of the 1st Class."

Construction.

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" " 50 (Civil Procedure) s. 2, cl. 2 repealed by Act 10, 1861,
1805 " 2 (Rent Law) s. 4 repealed by Act 10, 1859; and ss. 8, 9, 10, 11, 12, 14 by Act 10, 1861
" " 8 (Rent Law) s. 19, repealed by Act 10, 1859; s. 13 repealed by Act 50, 1860; and the whole as respects Koonch, &c., by Act 30, 1860
" " 12 (Rent Law) s. 24 repealed by Act 10, 1859
" " 14 (Civil Procedure) s. 11, except the proviso, repealed by Act 10, 1861
" " 15 (Civil Procedure) repealed by Act 10, 1861
1806 " 1 (Law Holidays) s. 10 repealed by Act 50, 1860
" " 2 (Civil Procedure) repealed by Act 10, 1861
" " 12 (Civil Procedure) so far as it extends regulations since repealed, repealed by Act 10, 1861
1807 " 1 (Civil Procedure) repealed by Act 10, 1861
1808 " 13 (Civil Procedure) repealed by Act 10, 1861

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1810 Regulation 13 (Civil Procedure) repealed by Act 10, 1861
1812 " 4 (Civil Procedure) repealed by Act 10, 1861
" " 5 (Rent Law, Bengal) ss. 5 to 23 repealed by Act 10, 1859
1813 " 6 (Civil Procedure) repealed by Act 10, 1861
1814 " 2 (Civil Procedure) repealed by Act 10, 1861
" " 23 (Civil Procedure) s. 13, cl. 3, ss. 14, 17, 18, 20, 25, cl. 4, ss. 28, 30, 31, cl. 3, ss. 33, 36, 38 to 41, 45, 46 all partially repealed by Act 10, 1861; and ss. 47, 50, 51, 53, 54, 69, 71 to 78 repealed by Act 10, 1861
" " 24 (Civil Procedure) repealed by Act 10, 1861
" " 25 (Civil Procedure) ss. 1 to 10 inclusive repealed by Act 10, 1861
" " 26 (Civil Procedure) except s. 14, repealed by Act 10, 1861
" " 27 (Civil Procedure) s. 27 repealed by Act 10, 1861
" " 28 (Civil Procedure) repealed by Act 10, 1861
" " 29 (Beerbhoom Ghatwallee Tenure) altered by Act 5, 1859
1815 " 2 (Civil Procedure) repealed by Act 10, 1861
1816 " 15 (Civil Procedure) repealed by Act 10, 1861
1817 " 3 (Civil Procedure) repealed by Act 10, 1861
" " 17 (Sessions Judge) s. 6, cl. 3, s. 9, cl. 3 repealed by Act 3, 1860; and s. 9 modified
" " 19 (Rent Law) ss. 15, 16 repealed by Act 10, 1859; the rest by Act 10, 1859
" " 20 (Rent Law) s. 27 repealed by Act 10, 1859
1818 " 10 (Land Revenue, Cuttack) repealed by Act 11, 1859
1819 " 8 (Civil Procedure) ss. 18, 19 repealed by Act 10, 1861
" " 9 (Civil Procedure) repealed by Act 10, 1861
1821 " 2 (Civil Procedure) s. 4 repealed by Act 10, 1861
1822 " 7 (Land Revenue, Cuttack) s. 22 and the following sections, so far as they relate to rent suits, repealed by Act 10, 1859
1824 " 3 (Civil Procedure) repealed by Act 10, 1861
" " 11 (Civil Procedure) repealed, so far as relates to Civil Courts, by Act 10, 1861
" " 13 (Civil Procedure) repealed by Act 10, 1861
" " 14 (Rent Suits) repealed by Act 10, 1859
1825 " 1 (Civil Procedure) s. 2, so much as relates to Civil Courts, repealed by Act 10, 1861
" " 2 (Civil Procedure) repealed by Act 10, 1861
" " 7 (Civil Procedure) repealed by Act 10, 1861

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1826 Regulation 12 (Stamp Duties) repealed by Act 36, 1860
1827 „ 4 (Civil Procedure) repealed by Act 36, 1860
„ „ 12 (Stamp Duties) repealed by Act 36, 1860
1829 „ 10 (Stamps) repealed by Act 36, 1860
„ „ 13 (Civil Procedure) s. 5 repealed by Act 36, 1860
„ „ 14 (Civil Procedure) repealed by Act 36, 1860
1830 „ 6 (Civil Procedure) repealed by Act 36, 1860
1831 „ 5 (Civil Procedure) the proviso to s. 5, cls. 1, 2, ss. 7, 8, 9, 10, 16, cl. 3, s. 18, cl. 1, the proviso, and cl. 4, ss. 19, 20, 21, 22, 23, 24, 25, 28, 29 repealed by Act 36, 1860
„ „ 8 (Rent Suits) repealed by Act 10, 1859
„ „ 9 (Civil Procedure) ss. 2, 8, and 10, so far as it extends those sections, repealed by Act 10, 1861
1832 „ 7 (Civil Procedure) ss. 1, 3, 6, 7, 10, 12, 13, 14, 15, 16, 17 repealed by Act 10, 1861
1833 „ 19 (Rent Suits) ss. 14, 15, as to Lower Bengal, repealed by Act 10, 1859

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1827 „ 2 (Civil Procedure) ss. 7, 9, 10, cl. 1, s. 21, except cl. 1 partially, ss. 22, 41, except cl. 3, ss. 45, 46, 51, except cl. 2, repealed by Act 10, 1861
„ „ 3 (Civil Procedure) s. 3 repealed by Act 10, 1861
„ „ 4 (Civil Procedure) except ss. 24 to 27, 34, cl. 4, ss. 52, 54, 69, 72, cl. 4 repealed by Act 10, 1861
„ „ 3 (Civil Procedure) s. 3 repealed by Act 10, 1861
„ „ 4 (Civil Procedure) except ss. 24, 26, 27, 34, cl. 4, ss. 52, 54, 55, in as far as they qualify the same, s. 69, cls. 2, 3, s. 72, cl. 4, s. 100, repealed by Act 10, 1861
„ „ 6 (Civil Procedure) repealed by Act 10, 1861
„ „ 7 (Civil Procedure) repealed by Act 10, 1861
„ „ 18 (Stamp Duties) repealed by Act 36, 1860
1828 „ 3 (Stamp Duties) repealed by Act 36, 1860
„ „ 6 (Stamp Duties) repealed by Act 36, 1860
1830 „ 8 (Stamp Duties) repealed by Act 36, 1860
1831 „ 3 (Stamp Duties) repealed by Act 36, 1860
1833 „ 10 (Abkaree Revenue) repealed by Act 17, 1859

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1802 „ 2 (Civil Procedure) ss. 3 to 10 inclusive, 12 to 17 inclusive repealed by Act 10, 1861
„ „ 3 (Civil Procedure) ss. 2 to 7 inclusive, except as to oaths and as to extension, ss. 9, 10, 12, 13, 14, 15, 17, 18, 19, 20, 27, 28, 29 repealed by Act 10, 1861
„ „ 4 (Civil Procedure) except s. 20 partially repealed by Act 10, 1861

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1802 Regulation 8 (Civil Procedure) ss. 4 to 16 inclusive, 19 to 22 inclusive, 28, 38 repealed by Act 10, 1861
" " 21 (Civil Procedure) repealed by Act 10, 1861
" " 24 (Civil Procedure) as respects execution of decree, repealed by Act 10, 1861
1806 " 4 (Civil Procedure) s. 7 repealed by Act 10, 1861
1809 " 7 (Civil Procedure) repealed by Act 10, 1861
" " 12 (Civil Procedure) repealed by Act 10, 1861
1811 " 2 (Civil Procedure) repealed by Act 10, 1861
1816 " 1 (Duty on Trades) s. 5, and partially s. 6, cl. 1 repealed by Act 18, 1861
" " 6 (Criminal Procedure) ss. 12 to 30 inclusive, 33 to 40 inclusive, 42, 44 to 48 inclusive, 51, 52, 53 from the proviso to the end, 54, 56, 57, 58, 60, 61, 62, cl. 2 repealed by Act 10, 1861
" " 8 (Civil Procedure) ss. 8, 10, 14 repealed by Act 10, 1861
" " 11 (Police) ss. 3 to 7, 11, 15 to 18, 21 to 25, 26, cl. 2, 29, 35, 38 to 41, 48, 55 repealed by Act 24, 1859; and s. 13, cl. 4 amended by Act 10, 1861
" " 13 (Stamp Duties) repealed by Act 36, 1860
" " 14 (Civil Procedure) ss. 16, 17 repealed by Act 36, 1860
" " 15 (Civil Procedure) except s. 8, cl. 2, so far as gives an appeal, repealed by Act 36, 1860
1817 " 8 (Civil Procedure) repealed by Act 36, 1860
1818 " 7 (Civil Procedure) repealed by Act 36, 1860
1821 " 4 (Police) s. 3 repealed by Act 24, 1859; and s. 2, cl. 2 partially by Act 36, 1860
1822 " 3 (Civil Procedure) repealed by Act 10, 1861
1823 " 1 (Civil Procedure) repealed by Act 10, 1861
" " 2 (Civil Procedure) repealed by Act 10, 1861
" " 3 (Civil Procedure) repealed by Act 10, 1861
1825 " 4 (Civil Procedure) repealed by Act 10, 1861
1827 " 1 (Civil Procedure) s. 9 partially repealed by Act 10, 1861
" " 7 (Civil Procedure) s. 5, cl. 1 partially repealed by Act 10, 1861
" " 11 (Civil Procedure) repealed by Act 10, 1861
1828 " 6 (Civil Procedure) repealed by Act 10, 1861
" " 9 (Civil Procedure) s. 3 partially repealed by Act 10, 1861
1831 " 6 (Police) s. 7 repealed partially by Act 24, 1859; s. 4 repealed by Act 29, 1859
" " 8 (Civil Procedure) s. 4 repealed by Act 10, 1861
1832 " 1 (Civil Procedure) repealed by Act 10, 1861
" " 5 (Mohturfa) repealed by Act 18, 1861

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